S. HRG. 110–775

EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JUNE 25, 2008

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COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

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EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES

WEDNESDAY, JUNE 25, 2008

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS
AND ENTREPRENEURSHIP,
Washington, DC.

The committee met, pursuant to notice, at 10:06 a.m., in room 428–A, Russell Senate Office Building, Hon. John F. Kerry (chairman of the committee) presiding.

Present: Senators Kerry and Snowe.

OPENING STATEMENT OF THE HONORABLE JOHN F. KERRY, CHAIRMAN, AND A UNITED STATES SENATOR FROM MASSACHUSETTS

Chairman KERRY. The hearing will come to order. Thank you all for being here. Good morning.

Obviously, with temperatures pushing 80 degrees here in Washington and the thermometer in the high 70s with a nice humid early summer day in Boston, it probably strikes some of you as odd that we are having a hearing on home heating oil prices. But for those of us who are New Englanders and understand what the New England winter brings and how the pipeline has to be fed early, not late, this is the right time to be having this hearing. In fact, the clock is ticking when it comes to Washington's ability to be able to step in before it is too late and allow the crisis for homeowners who are hard-pressed financially to face devastating circumstances.

So now and in the coming weeks, families and businesses are going to be sitting down to sign their heating oil contracts, and record prices are creating very difficult decisions for them. Nationally, 7.7 million households heat their homes with home heating oil. In Massachusetts, over 963,000 households use home heating oil delivered by over 800 distributors, many of them small businesses. And it is reality, not rhetoric that price spikes will force people to decide whether to feed their families or heat their home on any given day.

You don't have to take my word for that. The Energy Information Administration is projecting that heating oil prices will be up 56 percent in 2009 compared with 2007, and that estimate may even be modest. I challenge anybody to show me almost any worker who is going to see a 56 percent increase in their pay, let alone a five percent, or even two percent increase.

Prices for a gallon of home heating oil sit at over $4.50 today compared with less than $1 ten years ago. That means that consumers are paying thousands more than they used to pay just to heat their homes in the winter. In a slumping economy where the cost of everything else is soaring, too—health care, tuitions, clothing, food, all of it—in that kind of an economy, families are facing a recipe for the toughest kinds of choices.

Senator Snowe and I have been fighting to get Washington to take precautions ahead of time for some time in order to avoid the equivalent of a snowy Katrina, where we see our government flat-footed and families shivering in their homes. For low-income families and the elderly, the most important thing that we can do to respond to their needs ahead of time is to fund the Low Income Home Energy Assistance Program.

But that is just the start of a comprehensive answer to a complex problem. Consumers bear the brunt of spikes in heating oil prices, but small business owners are extremely hard hit, too. Most heating oil distribution is done by small businesses like the Northboro Oil Company owned by Sandra Farrell. As we will hear from Ms. Farrell and other small distributors, she and others are victimized many times over by the rising prices of fuel. Their accounts receivable go through the roof, and that is not an easy situation to handle during a credit crunch. Their customers have a difficult time paying their bills, and rising credit card fees further cut into their margins. The volatility in the market also causes the price of hedging, which is locking into a price and buying certainty to rise from a few cents a gallon a few years ago to upwards of 40 cents a gallon today.

We have to do a better job of easing the impact of these price shocks, and this is not a new problem, but regrettably obstruction in Congress doesn't help us to solve the problem. Back in the winter of 2000, I authored the Home Heating Readiness Act, which called on the Secretary of Energy to report to Congress on the readiness of the heating oil and propane industries to prevent and prepare for shortages, and I supported the creation of a Northeast Home Heating Oil Reserve to respond to localized price shocks. I have cosponsored Senator Snowe's bill, the Energy Policy and Conservation Act, which is a mandate for a release from the Northeast Home Heating Oil Reserve if the price of home heating oil is over $4 a gallon. So we need to be clear about the definition of a price shock and we need to make sure that this reserve is there to help people when they need it, and the fact is, time is running out.

Those are short-term, stop-gap precautions that we should insist upon. But Congress also has to tackle the explosion of energy prices as a whole. Crude oil prices make up 60 percent of the cost of home heating oil, and we have just received testimony in Congress from energy market experts and major oil company executives that the price of oil and gas can no longer be explained or predicted by normal market dynamics or through their historic understanding of supply and demand forces.

As an ExxonMobil executive testified before Congress under oath, the price of crude oil should be about $50 to $55 per barrel based on the supply and demand fundamentals that have been observed for years. But as we know, the current crude oil prices are well

more than double that—They are about $136 today—and there are many reasons why prices have risen to these levels.

To be absolutely clear, we just had testimony in the Commerce Committee a couple of weeks ago about this and I met with one of the CEOs of one of the major oil companies in the country last week, and all of the evidence that they have put in front of us says that anywhere from $10 to $40 a barrel is pure speculation and it is driving these prices. We just passed legislation which gives the Commodity Futures Trading Commission the authority and responsibility to prevent fraud, manipulation, and excessive speculation in U.S. commodity markets.

But I will tell you something. A strong Attorney General, a strong FTC, and a strong administration would be speaking out about this and they would be sending signals to the marketplace that would tamp down this speculation. And the fastest, quickest, most effective, and cheapest way to reduce the cost of fuel to the American consumer today is for the administration to have appropriate discussions about intervention with respect to the speculation that is taking place. Instead, we have a rather toothless and feckless bureaucracy that has stood at the sidelines while the American consumer pays a high price and while major companies walk away with very significant windfall profits.

We also need a broader and comprehensive strategy to help out the small businesses and consumers who get walloped by these skyrocketing prices. This week, I will once again be introducing along with Senator Snowe the Small Business Energy Emergency Relief Act of 2008 to provide affordable, low-interest, Small Business Administration disaster loans to small businesses that have suffered economic harm and can't pay their bills because of the huge price increases in heating oil, propane, kerosene, and natural gas. Whether they are small distributors or business owners who rely on those fuels to heat stores, many small businesses are dependent on these basic heating fuels. Our legislation will provide small businesses with assistance when you have a very dramatic fluctuation that is completely unanticipated and takes a working, viable business that under normal circumstances can survive and helps them get through that rough spot of the dramatic and unpredictable price fluctuation.

This legislation has passed the full Senate three times. It has passed this committee several other times, and it is time we got the obstruction out of the way and got it into law so that we put another tool at the disposal of our small businesses.

I might just end by saying that with these kinds of pressures, opportunities also present themselves, and it seems to me that the market, with help from the government, can unleash unbelievably powerful forces to create new efficiencies in order to help solve the problem in the long term. Let me give you an example.

Massachusetts Governor Patrick, Senate President Murray, and House Speaker DiMasi have introduced legislation that would make Massachusetts the first State to require all diesel and home heating fuel sold in the State to contain a minimum amount of renewable bio-based alternatives in their blends, with that amount rising from two percent in 2010 to five percent in 2013. These mandates will help build Massachusetts's emerging biofuel refinery and

distribution sector and save consumers money as renewable sources become more prevalent and cheaper, and it also obviously sends a message to the marketplace about the perspective of the government on this issue.

We ought to be on the fast track towards increasing energy efficiency. It is shocking to me, absolutely shocking to me, that after all these years, 1975 and Jimmy Carter and the first oil shock, and then 1988, Jim Hansen predicting global climate change, and now all the rhetoric of the last eight years about energy efficiency and climate change, et cetera, et cetera, it is stunning to me that we still remain the most profligate, wasteful nation in the world with respect to energy. We just throw it away.

Our escalators are going 24/7. In other countries, they stop and start as people get on them. Our lights are on in halls 24/7/365. In other countries, they are dimmed and if nobody is in the hall, they go off completely. If somebody comes out of a room into the hall, they go on automatically. We are so far behind that it is shameful, and we are wasting money and fostering a greater dependency on foreign entities that supply our fuel.

We have got to get smart here. There are real savings to be had, and the fact is that a lot of big businesses that I have met who are now involved in pushing for a cap and trade global climate change response companies ranging from DuPont to Dow Chemical to British Petroleum and others are all engaged in major energy efficiency programs that are saving some of them billions of dollars and others millions of dollars. So this is the track we have to go on, and we need to make it possible for small businesses, who often can't afford the capitalization costs, to take advantage of these things, because in the long run, it will make them more competitive and more efficient.

Senator Snowe.

OPENING STATEMENT OF THE HONORABLE OLYMPIA J. SNOWE, A UNITED STATES SENATOR FROM MAINE

Senator SNOWE. Thank you, Mr. Chairman, for holding this critical hearing today. It is certainly timely with respect to the dramatic impact that skyrocketing home heating oil and energy costs that are burdening and bearing down on small businesses and American consumers. I appreciate your tireless leadership on this issue that is imposing untold hardship on people, certainly in my State of Maine and across the country.

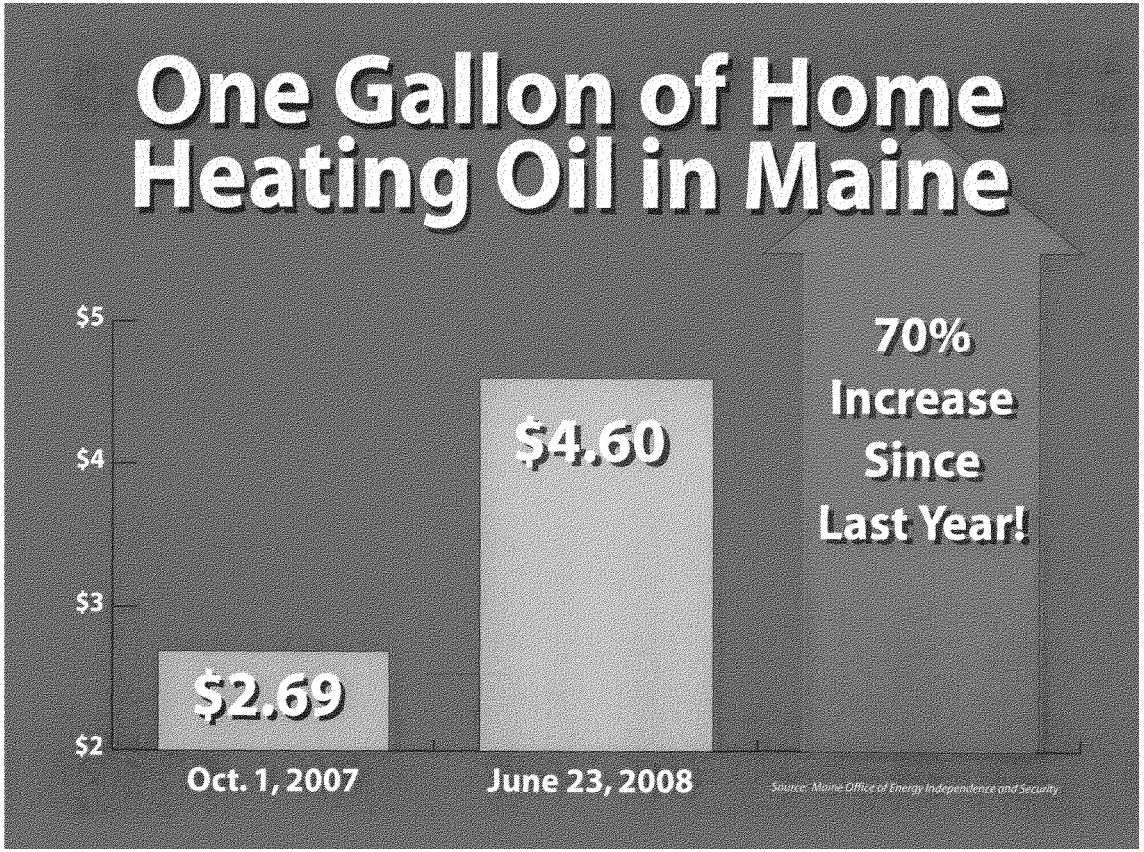
I want to join the Chairman in welcoming Mr. Johnson, who is the Deputy Assistant Secretary for Petroleum Reserves, who has been with the Department, as I understand it, since 1979, so he has seen the dimensions of this critical question.

I also appreciate the fact that the Department of Energy has announced its intent with an issuance of solicitation to purchase approximately 35,000 barrels of oil for the Northeast Home Heating Oil Reserve. I appreciate that and want to explore that issue further with respect to the terms of adjusting the formula in the legislation to which the Chairman had referred.

I also want to thank Jennifer Brooks, who is a Community Relations Manager at Penquis Community Action Program, who is on the front line of providing services to my constituents and to the

people of Maine that is so difficult during these difficult times. Also Michael Stoddard with Environment Northeast, for traveling from Maine to participate in this hearing. I welcome your expertise and insight about the increasingly dire situation that requires bold and immediate action, analysis, and investigations into the pricing and supply of home heating oil, and above all, how to prepare for a potential and unmistakable tsunami that is heading for Maine and New England and throughout this country, given the dramatic increase in energy prices.

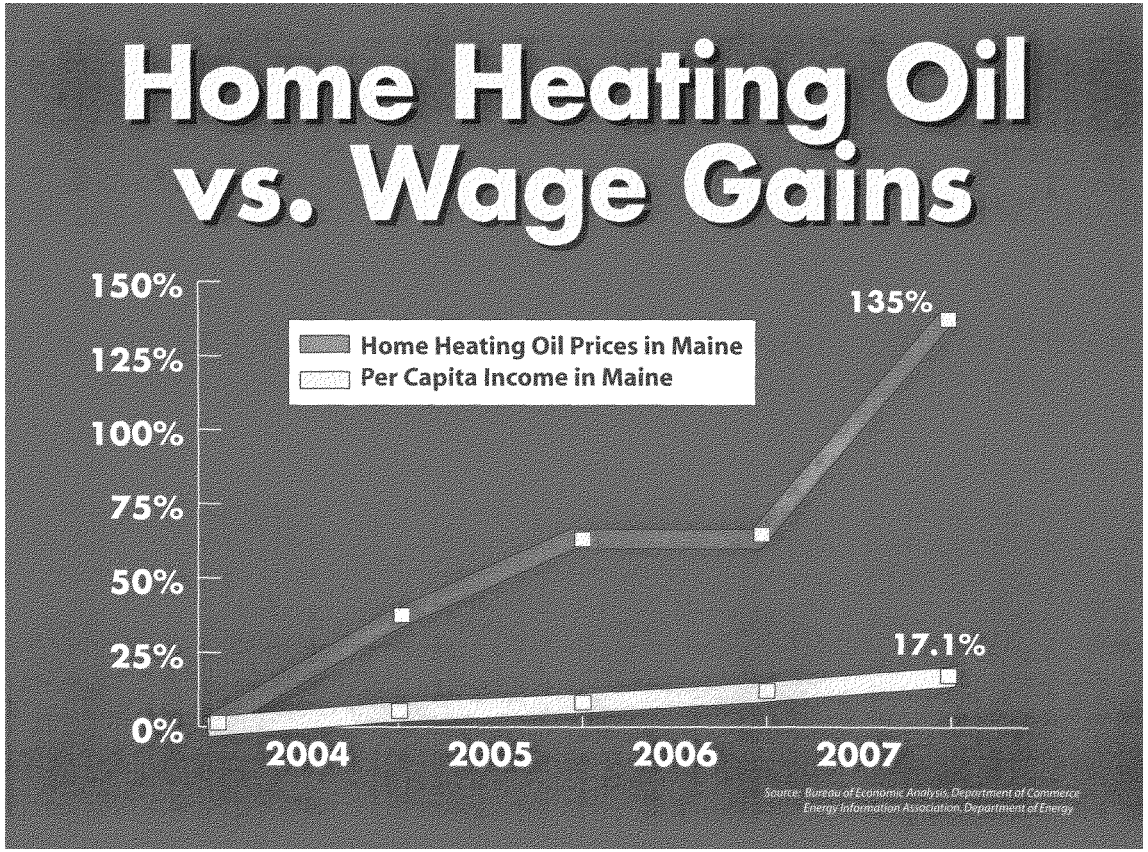
Mr. Chairman, the ominous reality is that alarm bells have already sounded as we are confronting a crisis of the highest order. Consider the example that is illustrated here on this chart. In 2006, New England was purchasing oil per gallon for $2.39, for 4.1 billion gallons of home heating oil, representing 82 percent of the entire country's demand, and costing New England $9.84 billion.


One Gallon of Home Heating Oil in Maine
$5
$4
$3
$2
$2.69
$4.60
70% Increase Since Last Year!
Oct. 1, 2007
June 23, 2008
Source: Maine Office of Energy Independence and Security

Fast forward two years, and this chart highlights that one gallon of home heating oil in Maine currently costs $4.60, and since the start of the 2007–2008 home heating oil season, we have seen the price increase by more than 70 percent. So New England may spend, in today's prices, just given the $4.60 anticipation, more than $19 billion on home heating oil alone, compared to 2006, where it was $9.84 billion. And we are in the middle of the summer, when demand for home heating oil is negligible.

So I trust that this hearing will provide Mainers and Americans with an explanation for the unfathomable price increases as well as explore initiatives that can mitigate these energy costs as winter approaches. It is time we begin to understand and then act upon the root causes behind these pernicious price increases.

As this chart indicates, from 2003 to 2007, the home heating oil price in Maine jumped by a staggering 135 percent, far outpacing the wage gains that the Chairman referred to, which increased 17.1 percent. A 135 percent increase in a basic commodity and yet wages only increased 17.1 percent.


Home Heating Oil vs. Wage Gains
150%
125%
100%
75%
50%
25%
0%
Home Heating Oil Prices in Maine
Per Capita Income in Maine
135%
17.1%
2004
2005
2006
2007
Source: Bureau of Economic Analysis, Department of Commerce
Energy Information Association, Department of Energy

So it begs the question, what specific concrete steps can we take here in Congress to reverse this calamity? How can citizens and small businesses prepare for the winter months ahead? What can be done to increase the inventory of our home heating oil supply? What exactly are customers saying? How are dealers responding?

Furthermore, I think that we need to understand exactly what is driving up these prices, as the Chairman referenced in terms of price speculation. Maine oil dealers told me that one day in May the price for home heating oil went up 30 cents per gallon, again when demand is virtually negligible, minimal, and yet 30 cents in one day. We had the single largest increase for oil per barrel in June. It went up $11 in one single day.

So the purpose of this hearing is again to elicit an understanding in terms of the analysis and also to receive answers to many of these questions and how we can stem this crisis and prepare for the winter ahead.

Certainly, small business owners are experiencing the financial pressure of rising energy costs and they require assistance. According to the National Federation of Independent Businesses, 42 percent of small businesses ranked the cost of natural gas, propane, gasoline, and fuel oil as a critical problem. In most cases, small businesses, instead of exploring opportunities for expansion or growth, are forced to reexamine their business plans, future investments, bottom-line profitability, and job creation.

Energy price increases severely undermine small businesses, which often lack the negotiating power and margin buffer enjoyed by their larger counterparts, and that is especially true for small business, oil and gas distributors. According to the New England Fuel Institute, which submitted testimony to this committee, heating oil has had a dramatic effect on almost every aspect of these small business operations.

As we will discuss today, these distributors are confronted with severely constrained bank credit lines and are unable to secure more credit to confront rising oil prices. These dealers are also having a difficult time maintaining a liquid cash flow, as most customers cannot afford to pay their entire heating oil bill. In this bleak landscape, 16 small business oil distributors in Maine have already gone out of business in this past year. With small businesses operating on razor-thin margins, they often must raise prices simply to remain in business, which in turn impinges on customers as they struggle with inflation across the board in simply every category.

Energy cost increases are also compelling small business executives to make reductions in other areas, such as employee benefits and safety training. And let us not forget that these same dynamic entrepreneurs, that we count on to create three-quarters of all new jobs in America, are now coping with double-digit premium increases in the cost of providing their employees' health care.

For individual families, the situation is worsening and becoming untenable. Mainers require between 850 gallons to 1,000 gallons a year to get through the winter. Most Mainers are now facing a classic Catch–22. Do I lock in prices that are nearing $5 a gallon, or do I roll the dice and gamble that heating oil prices might somehow drop in the coming months as the weather turns colder? The

thought of spending approximately $5,000 per family just to stay warm this winter in a State where the per capita income is $33,000 is outrageous. The potential scenario is nothing short of a looming catastrophe for the region with every passing day, and this is a State that derives 80 percent of home heat from oil. That is the challenge that we are facing in our State and certainly throughout New England.

Amid this challenging economic landscape and all too polarizing political climate, there are steps and initiatives we can take to mitigate the effects of soaring prices. That is why I will join the Chairman when he introduces his legislation that will provide for an underpinning to our economy, and that is allowing for disaster assistance loans for economic dislocation. With prices remaining close to $5 a gallon, when the winter months come, this will certainly affect the major part of our economy in this country that creates jobs.

The Small Business Act currently allows for the Administrator to declare a disaster for small businesses suffering a substantial economic injury. I think this legislation is most appropriate in allowing SBA to provide loans for small businesses that have suffered injury when home heating oil prices have increased by 40 percent.

As Senator Kerry mentioned, we now have the Northeast Home Heating Oil Reserve Program. It was created in 2000. I have introduced legislation to adjust the Reserve's release formula, and I appreciate Senator Kerry's cosponsorship and Senator Dodd's. I think it is critically important that we adjust that formula so that if prices remain above $4 a gallon, that we are able to release that supply in a staggered fashion throughout the winter, with the funding from its sale to also underwrite weatherization programs.

At a time when astronomical energy prices drive individuals to keep warm by using cooking stoves, space heaters, and kerosene can heaters, which can lead to fires as well as produce toxic fumes, we must take every available step to reduce prices. That is why I vigorously fought for extending the tax credits for alternatives and renewables. It is regrettable we have not passed that here in the Congress. It is set to expire at the end of this year.

But what is even more preposterous is that one of my provisions that would provide a tax credit for remodeling of homes to make them more energy efficient expired at the end of last year and we were unable to get that renewed for the beginning of this year. Here are people trying to remodel their homes, get energy-efficient furnaces, and they are not able to take advantage of a tax credit because it expired this last year.

We also have the Low Income Fuel Assistance Program. I worked to get the authorization doubled in the budget resolution with Senator Conrad, who is the Chairman of the Budget Committee, and now it is important to make sure that we have the appropriations to buttress that authorization. But given the meteoric rise in our prices, our reliance on low-income fuel assistance will not be sufficient to address those who are reliant on the program and even those who are not eligible income-wise to use that program. We are going to have to address other ways in which to help people to accommodate these rising costs in home heating oil.

So we have to act swiftly and decisively commensurate with the mammoth scale of our nation's energy challenges. I hope that Congress can address these and other issues, including speculation in the energy markets, that as many have indicated through testimony and through studies submitted to this Congress, that, in fact, it adds anywhere from $25 to $60 per barrel of oil. So we do have an obligation to act, in fact, much of which could happen today with unilateral action by the Commodity Futures Trading Commission.

They have the powers today, for example, to require that those oil futures that are traded in foreign markets have to adopt the same standards and regulations that are required here in the United States. Much of those oil futures are traded abroad and yet they are contributing to the rising oil prices, yet we have no way of engaging in any kind of oversight, suspending the trading or giving the Commodity Futures Trading Commission the emergency authority to suspend and intervene in emergency situations to suspend the trading when necessary, in addition to limiting the positions of individual traders when they are cornering a market.

So there are many issues that can be addressed that could have an immediate impact on the prices, and hopefully we can build a bipartisan support. I think we should have a national energy summit between Congress and the President, engage in a bipartisan solution to this problem, and deal with it as it is a crisis for this country.

Thank you, Mr. Chairman.

Chairman KERRY. Thank you very much, Senator Snowe. That was an important statement and I appreciate it very, very much.

Mr. Johnson, in light of those comments as a backdrop, we look forward to your testimony. As you know, your full testimony will be placed in the record, so if you could summarize, that would be helpful.

STATEMENT OF DAVID F. JOHNSON, DEPUTY ASSISTANT SECRETARY FOR PETROLEUM RESERVES, U.S. DEPARTMENT OF ENERGY, WASHINGTON, DC

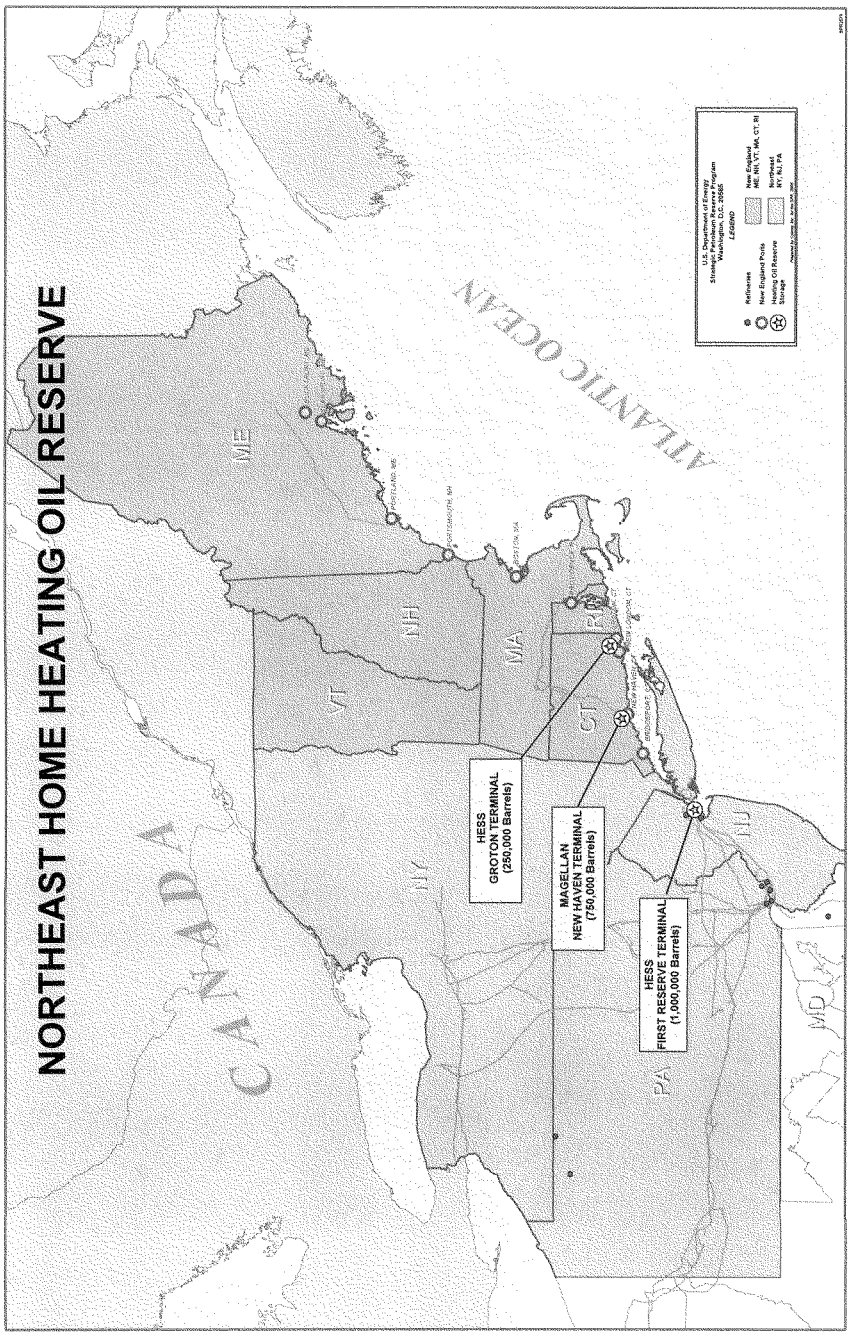
Mr. JOHNSON. Thank you. Mr. Chairman and Senator Snowe, I am pleased to be here today to discuss the Northeast Home Heating Oil Reserve, which was established by the Department of Energy in 2000 as an emergency stockpile of heating oil to address weather-related supply problems in the Northeast.

The vulnerability of the Northeast to heating oil supply problems has always been a concern. The New England portion of the Northeast is most vulnerable to any form of heating oil supply constraints during the winter season, and New England has no refineries so that the heating oil must all be brought from outside the region. A high percentage of the movements into and around the region are marine, thereby putting movements of heating oil at risk for any severe winters when rivers freeze, and in some cases harbors freeze and are closed by high winds during the peak demand periods.

In July of 2000, the President directed by the Department of Energy to establish a regional distillate reserve in the Northeast as an emergency stockpile of heating oil to address these winter-re-

lated problems, as occurred in the winter of 1999 and 2000. The regional distillate reserve in the Northeast was later codified in the Energy Policy and Conservation Act as the Northeast Home Heating Oil Reserve.

The authorized size of the Northeast Home Heating Oil Reserve is two million barrels. The intent was to create a stock buffer large enough to allow commercial companies to compensate for interruptions in supply during severe winter weather, but not so large to dissuade suppliers from responding to increasing prices as a sign that more supply is needed. The Northeast Home Heating Oil Reserve is comprised of government-owned oil stored in commercial storage tanks in the Northeast, of which one million barrels is in New England and one million barrels is located in the New York Harbor.


NORTHEAST HOME HEATING OIL RESERVE
CANADA
ATLANTIC OCEAN
ME
VT
NH
MA
RI
CT
NY
PA
NJ
MD
HESS
GROTON TERMINAL
(250,000 Barrels)
MAGELLAN
NEW HAVEN TERMINAL
(750,000 Barrels)
HESS
FIRST RESERVE TERMINAL
(1,000,000 Barrels)
U.S. Department of Energy
Strategic Petroleum Reserve Program
Washington, D.C. 20585
LEGEND
Refineries
New England Ports
Heating Oil Reserve
Terminal
New England
ME, NH, VT, MA, CT, RI
Northeast
NY, NJ, PA

The Heating Oil Reserve currently contains 1,965,000 barrels. The Department had to sell 35,000 barrels in June of 2007 in order to have sufficient funding to award new storage contracts for the heating oil. The current storage contracts will provide for the storage through September 2011.

In 2008, Congress appropriated $3 million of additional funds to repurchase the 35,000 barrels sold. Just this week, the Defense Energy Support Center, acting as our purchasing agent, has issued a solicitation for the replenishment of these quantities.

The Department's response plan for the Heating Oil Reserve provides for the release of heating oil by the means of competitive sales. The Department has implemented an online sales platform which will allow for the award of sales contracts within two days, and the Department's Office of Fossil Energy website permanently posts standard sales provisions and also provides the means for companies and individuals to register for prompt notification for imminent sale. Actual sales are limited, of course, to entities customarily engaged in the sale and distribution of petroleum distillate. The Petroleum Reserve Office conducts pre-season exercises of the sale system with industry every winter to ensure the industry's familiarity with the sale system and to receive feedback for continual improvement.

Congress in the Energy Policy and Conservation Act provided explicit conditions for the release of stocks from the Heating Oil Reserve. The Secretary may release stocks from the reserve only upon the finding by the President that there is a severe energy supply interruption. Such a finding may only be made if it is determined that, one, a dislocation in the heating oil market has resulted from an interruption, or two, a circumstance exists that constitutes a regional supply shortage of a significant scope and duration that the reserve's release would significantly reduce its adverse impact.

To date, the Northeast Home Heating Oil Reserve has not been needed to address an emergency winter shortage situation. The recent winter, however, of 2007–2008 saw the end-of-season potential supply situation develop in the Northeast as commercial stocks fell to unprecedented lows due to high market prices and strong demands for distillate in Europe. That situation is not what the reserve was established to address and would not have been characterized as a severe energy supply disruption, as the law stipulates. However, last year's situation does give similar concerns for this upcoming winter of 2008–2009.

I would like to conclude by saying the Department's Northeast Home Heating Oil Reserve stands ready to make heating oil available in a very rapid manner in the event of a Northeast supply shortage. We are currently adding the heating oil to bring our supplies to 99 percent. During the winter season, the Department of Energy also participates in weekly energy calls with the State energy offices, local government, the Northeast gas and heating oil associations, and the Coast Guard and others to monitor the Northeast fuel supply situation. These calls have served in the past to help States exchange information, coordinate a response to stock situations, transportation issues, price levels, and dealer and consumer concerns.

This concludes my prepared testimony. I will be happy to answer any questions you have.

[The prepared statement of Mr. Johnson follows:]

Statement of David F. Johnson
Deputy Assistant Secretary for Petroleum Reserves
before the
Committee on Small Business & Entrepreneurship
U.S. Senate
June 25, 2008

Mr. Chairman and members of the Committee, I am pleased to be here today to discuss the Northeast Home Heating Oil Reserve, which was established by the Department of Energy in 2000 as an emergency stockpile of heating oil to address weather-related supply problems in the Northeast.

NORTHEAST HEATING OIL MARKET

As you are aware, America's homes and businesses are heated predominantly by three fuels: heating oil, natural gas and electricity. Heating oil provides heat to only about 7 percent of residences on a national basis, but the demand is not uniformly distributed; the Northeast consumes about 73 percent of all the heating oil used in the country. According to National Oilheat Research Alliance, the average heating oil consumption per household is three gallons per day, which for the Northeast amounts to about 428,000 barrels on an average winter day. However, when temperatures drop below normal, this figure could increase to as much as 700,000 barrels per day.

In terms of supply, heating oil supplying the Northeast comes from a number of sources:

- Shipments from Gulf Coast refineries via pipelines and, to smaller extent, tankers or barges;
- Shipments from Central Atlantic refineries distributed throughout the region by pipeline and barges;

- Imports from offshore and foreign areas – most notably, Canada, the Caribbean, and Europe.

In addition, private industry routinely builds up pre-seasonal heating oil stocks in terminals in New England and New York harbor; these reserves are required to augment the normal supplies of heating oil during the winter heating season and they are critical to satisfy normal surges in demand and to prevent heating oil shortages and spikes in heating oil prices.

The vulnerability of the Northeast to heating oil supply problems has always been a concern. The New England portion of the Northeast is most vulnerable to any form of heating oil supply constraints during the winter season. New England has no refineries, so that all heating oil must be brought in from outside the region. A high percentage of the movements both into and around the region are marine, thereby putting movements of heating oil at risk during very severe winters when rivers and, in some cases, harbors freeze or are closed by high winds during peak demand periods.

In the late winter of 1999-2000, for example, the Northeast suffered a severe cold spell. Just as demand was rising to record levels, domestic natural gas production slumped in the producing regions and harbors froze, North Atlantic storms kept ships at sea and barges could not move. Heating oil availability became spotty; dealers were rationing supplies and prices surged. This was not the only time in recent history that the Northeast has experienced exceptional heating oil price spikes. There were similar short run price spikes during severe cold periods in the winters of 1983-84, 1989-1990, 1993-94 and late 1996.

NORTHEAST HOME HEATING OIL RESERVE

In July of 2000, the President directed the Department of Energy to establish a regional distillate reserve in the Northeast, as an emergency stockpile of heating oil to address weather–related supply problems in the Northeast, as occurred in the winter of 1999-2000. The regional distillate reserve in the Northeast was later codified in the ***Energy Policy and Conservation Act*** as the Northeast Home Heating Oil Reserve (NEHHOR) at 42 USC 6250, et seq.

The authorized size of the Northeast Home Heating Oil Reserve is two million barrels. The intent was to create a stock buffer large enough to allow commercial companies to compensate for interruptions in supply during severe winter weather, but not so large as to dissuade suppliers from responding to increasing prices as a sign that more supply is needed.

The Northeast Home Heating Oil Reserve is comprised of Government-owned heating oil stored in commercial storage terminals in the Northeast, of which one million barrels is located in New England and one million barrels is located in New York harbor. The Department of Energy currently has established storage contracts for storing up to 1,000,000 barrels of heating oil at the Hess First Reserve terminal in New Jersey, 750,000 barrels of heating oil in New Haven, Connecticut, and 250,000 barrels of heating oil in Groton, Connecticut. Under the Government's storage contracts, the storage terminals have the responsibility to:

- provide inventory management and turnover of the Government's stocks;
- meet all Department of Homeland Security requirements for port security
- provide full availability of the Government's product in the event of a release;

- provide the capability to deliver all the Government's product within 10 days on a 24 hour notice; and
- provide the capability to distribute heating oil by tanker/barge, truck and pipeline where applicable.

The current storage contracts can also accommodate the storage of biodistillate as part of the Northeast Home Heating Oil Reserve, if desired.

The Heating Oil Reserve currently contains 1,965,000 barrels. The Department had to sell 35,000 barrels in June 2007, in order to have sufficient funding to award new storage contracts for the heating oil storage. Storage costs under the new contracts were significantly higher than the expiring contracts due to increased commercial demands for product storage. The current storage contracts, which were awarded in September 2007, have three one-year fixed-price options, and will provide for storage through September 30, 2011.

In 2008, Congress appropriated $3 million of additional funds to repurchase the 35,000 barrels, and the Defense Energy Support Center, acting as our purchasing agent, has just this week issued a solicitation for the replenishment quantities.

RESPONSE PLAN AND CAPABILTIES

The Department of Energy's response plan for the Heating Oil Reserve provides for the release of heating oil by means of a competitive sale. The Department has implemented an on-line sales platform which allows for award of sales contracts within two days. The Department's Office of Fossil Energy website (www.fe.doe.gov) permanently posts standard sales provisions and also provides a means for companies or individuals to register for prompt notification of an imminent sale. Actual sales are limited to "entities

customarily engaged in the sale and distribution of petroleum distillate". The Petroleum Reserves office conducts pre-season exercises of the sales system with industry every winter to assure industry's familiarity with the sales system and to receive feedback for continual improvement.

Under the most likely scenario, the competitive sales bidding will open the day after a specific notice of sale is posted. The secure internet sales platform will be open for 2-3 hours and close at approximately noon Eastern Time. Bids will be anonymous to other bidders and will specify the quantity, location, and price, expressed as a premium to the New York Mercantile Exchange (NYMEX) near month closing price for heating oil on the day of the bidding. This pricing methodology assures the Department receives fair market value.

A bidder must provide a financial guarantee of $250,000 provided by wire transfer prior to submission of his bids. Companies may submit multiple bids, but no one company will be awarded more than 40 percent of the heating oil offered at any one geographical location (i.e. New York Harbor or New England). This limitation is intended to prevent any potential for a monopoly position in the resale of the oil. The Department reserves the right to limit the total volume awarded based on the reasonableness of the bids (including not awarding any sales contracts).

The premium values of the winning bids will be indicated on the sales platform, and contract awards will be confirmed following the close of bidding. Heating oil from the Reserve will be delivered on a prepaid basis only. The buyer will be required to wire payment to the Government within 48 hours following notification of award, or prior to taking delivery if less than 48 hours.

The distribution plan for the Northeast Home Heating Oil Reserve is based on maximum use of the commercial terminal infrastructure and industry procedures in place, since the greatest potential for efficient and expeditious distribution of the heating oil stocks rests with the industry performing these functions. The buyer must make arrangements to have delivery of their oil take place within ten days of award. However, distribution could be accomplished more quickly, if the buyers can arrange sufficient transportation.

In recommending to the President that the Heating Oil Reserve should be released, the Secretary of Energy may include a further recommendation that the President direct the Secretary of the Department of Homeland Security to waive compliance with the coastwise laws affecting marine deliveries of heating oil from the Reserve, including the law referred to as the "Jones Act" that generally requires that coastwise trade be conducted via vessels that are owned by US citizens or US interests. See, 46 USC 12112. This may be vital to supply the areas in northern New England.

CONDITIONS FOR RELEASE

Congress, in the ***Energy Policy and Conservation Act***, 42 USC 6250b, provided explicit conditions for the release of stocks from the Northeast Home Heating Oil Reserve. The Secretary may release the stocks from the Reserve only upon a finding by the President that there is a "severe energy supply interruption." Such a finding may be made only if it is determined that (1) a dislocation in the heating oil market has resulted from the interruption, or (2) a circumstance exists that constitutes a regional supply shortage of significant scope and duration that the Reserve's release would significantly reduce its adverse impact.

The law deems a "dislocation in the heating oil market" to occur when:

1. The price differential between crude oil and No. 2 heating oil increases by more than 60% over its five year rolling average for the months of mid-October through March (considered as a heating season average); and
2. The price differential continues to increase during the most recent week for which price information is available.

Since the Reserve was established in 2000, this calculation has only reached the defined level three times, all of which were in circumstances that were not characterized by a "severe energy supply interruption." In December 2000, the disparity was caused by a significant decrease in crude oil prices due to increased OPEC production. In March 2003, there was a rise in heating oil prices at the end of the season, and in October 2005, the differential in crude and heating oil prices were a result of refinery outages due to Hurricane Katrina. Neither situation constituted a dislocation problem requiring a release of heating oil stocks.

The Administration has been steadfast in adhering to the law by not releasing heating oil to influence prices. However, the Department recognizes that price spikes are indicative of an underlying supply upset condition, and monitors prices, stocks, and temperature forecasts to discern when conditions may deviate significantly from normal. Likewise, continual collaboration with State energy offices, the Coast Guard, and industry associations provide information which may support a Presidential finding.

PRIOR USE

To date, the Northeast Home Heating Oil Reserve has not been needed to address an emergency winter shortage situation. The recent winter of 2007-08 saw an end-of-season potential supply situation develop in the Northeast, as commercial stocks fell to unprecedented lows due to the high market prices and strong demand for all distillates in Europe. That situation is not what the Reserve was established to address and would not be characterized as a "severe energy supply interruption" as the law stipulates. Last year's situation gives us similar concerns for the coming winter of 2008-09. The normal off-season prices for heating oil stocks have remained high due to the current high crude oil prices, the continued strong demands for all distillates in Europe and Asia, and the year-round domestic demand for low and ultra low sulfur fuels in the on-road and off-road sectors. All this has made heating oil more costly and is currently impacting the rate at which needed commercial heating oil stocks levels will build in the Northeast.

CONCLUSION

I would like to conclude by saying that the Department's Northeast Home Heating Oil Reserve stands ready to make heating oil available in a very rapid manner in the event of a Northeast supply shortage. We are currently adding heating oil to bring our supplies to 99 percent. During the winter seasons, the Department of Energy also participates in weekly energy call with the State Energy Offices, local governments, Northeast gas associations, the U.S. Coast Guard, and others to monitor the Northeast heating fuel supply situation. These calls have served in the past to help States to exchange information and coordinate responses to stock situations, transportation issues, price levels, and dealer and customer concerns. This concludes my prepared testimony and I will be happy to answer any questions you may have.

Chairman KERRY. Well, thank you, Mr. Johnson.

So do I understand from your testimony that it would be your position that you do not have the Congressional authority to release the reserve other than in those two circumstances?

Mr. JOHNSON. That is correct.

Chairman KERRY. And you are saying that the circumstances require an interruption?

Mr. JOHNSON. That is correct, a supply disruption.

Chairman KERRY. A supply disruption. There were two circumstances. One was a supply disruption, and one was a disruption of what?

Mr. JOHNSON. One was what is called a—there is a trigger which is a supply dislocation, and the other one was——

Chairman KERRY. Why would what we have today not be a supply dislocation?

Mr. JOHNSON. Because the President—the high prices are not indicative of a supply interruption——

Chairman KERRY. So if there is no supply interruption and the normal supply and demand curve is what it was, why is the price going up?

Mr. JOHNSON. The price of heating oil, as you know, is—excuse me. The price of heating oil is tied to the price of crude and that is why—it is based on the fundamentals and the price of crude.

Chairman KERRY. And that can't be interpreted as a supply interruption?

Mr. JOHNSON. No, sir.

Chairman KERRY. So is it your position that Congress needs to pass a redefinition or an additional circumstance?

Mr. JOHNSON. That would be correct.

Chairman KERRY. Interesting. Under what circumstances as a matter of policy do you believe we should perhaps use the reserve? Let me preface that with a threshold question. Do you believe the reserve is large enough?

Mr. JOHNSON. The reserve was built to respond to winter-related supply emergencies such as that happened in the 1988–1989 winter and again in the 1999–2000 winter, in which prices spiked because supplies couldn't reach the market and the reserve was built to address those things. It was not to address price issues as what you are thinking. So therefore what we did is want to build only enough supplies that would meet that immediate need. We have enough supplies that can meet five days of——

Chairman KERRY. I understand all of that, but it is not what I am asking. I am asking you to think out of the box a little bit and tell me whether, given what is happening to small businesses, given the rise in prices, as a matter of policy, should we consider having a larger reserve which can be released as a counter to speculation, to these very significant spikes in price that have a profoundly negative impact on the economy generally, and particularly on small businesses?

Mr. JOHNSON. Sure, the reserve could be made bigger, but essentially if you are saying that there needs to be more supplies, the industry should be out there providing those supplies to build up. Is it——

Chairman KERRY. Well, we haven't built a refinery in this country in 30 or 40 years. We don't have any refineries in New England, I don't think.

Mr. JOHNSON. Correct.

Chairman KERRY. So obviously the marketplace isn't working so well with respect to supply. They kind of like it the way it is, a nice chokehold. Prices are up and you can make a lot of money. My question is whether we need some intervention in the marketplace to help consumers. People are crossing the border to get gas in Mexico now. They take gas holidays. Did you know that? They drive to Mexico in order to fill up because Mexico subsidizes their gas, keeps it a lower price.

I am not suggesting we ought to subsidize the price, but I think we should have the ability to be able to counter the negative impact—the inflationary impact, the significant sort of disruption, if you will, to the normal market forces that occurs when you have a very significant increase in prices because of speculation, as you heard Senator Snowe speak about as well. Her experts say speculation is responsible for $20 to $65 per barrel. I said $10 to $40. Put it somewhere in between, $30 to $50. That is a very significant chunk of what the American consumer is paying today due only to speculation.

So you can tamp down the speculation if you have the ability to counter it by affecting the supply and demand curve. Has this not occurred to you? You guys don't talk about these things?

Mr. JOHNSON. Yes. Yes.

Chairman KERRY. You do?

Mr. JOHNSON. But, you know, the thing is if you take and you build a reserve up there and you released it due to higher prices, you are going to dissuade industry from bringing stocks in to supply. They are going to have expectations more that the government is going to release oil so therefore I should be able to have it.

Chairman KERRY. Why wouldn't you have the counter incentive, which is to bring a whole bunch in so that you are the person selling it and you make more money to prevent the government from feeling it has to? I mean, if you have got a good business instinct, it seems to me the instinct is to try to get as much of the market as you can, and therefore you want to make sure you have got enough supply coming in because they might come in——

Mr. JOHNSON. But should government compete with industry? Should——

Chairman KERRY. Technically, no, but industry also ought to behave according to some standards. This is why we have the FTC. That is why we have a Commodity Futures Trading Board. That is why we have an Attorney General. That is why we have laws, blue sky laws. That is why Teddy Roosevelt busted up a whole bunch of trusts, because people didn't behave. And we learned a long time ago that sometimes the government has to step in to ensure a fair playing field. That is all we are talking about here.

Mr. JOHNSON. Yes, but the price of heating oil is a reality due to the price of crude oil and essentially it is Congress——

Chairman KERRY. It is tied to crude oil. I understand it is wedded to the per-barrel cost. I get it. But when you have a region that is particularly dependent on heating oil with a whole bunch of con-

comitant costs that have a profound impact on people's ability to survive, don't you have some responsibility to try to address that?

People are paying for something they have no control over. For instance, they are losing their health care because defined benefit plans are disappearing and they are being thrown into contribution plans, so they are out in the marketplace, fending for themselves. Their health care costs are going up. Their benefits are going down. They turn around, college tuition is going up. You notice tuition costs are going up? Their food prices are going up. And now credit costs more because the housing market has collapsed, and there has been no response from this administration for six months despite many of our pleas. We hopefully will pass something here in the Congress.

Haliburton is doing well. A bunch of big companies are doing well. But the average American is really getting hurt. It doesn't seem like there is an administration response that wants to try to find a way to intervene and help the average American.

Now, coming back to heating oil prices, I am asking you as a matter of policy, would the administration support expanding that home heating oil pool and expanding the circumstances under which it might be released in order to relieve pressure? You could define a set of strict impacts, but would you be supportive of exploring something like that?

Mr. JOHNSON. I can't speak for the administration on that. I do manage the Heating Oil Reserve in accordance with the laws——

Chairman KERRY. What would you advise, as the person who manages the heating oil? Does it concern you?

Mr. JOHNSON. The whole situation concerns me very much, okay. I believe the premise of the Northeast Home Heating Oil Reserve to meet the winter-related shortages is a very important mission and is something that we should be doing from the Federal Government. However, I think also the Department of Energy is doing as much in trying to resolve some of these issues, because it is tied to crude. The Department has initiated efforts to increase energy efficiencies and conservation efforts, development of cleaner, more sustainable energy sources, alternative fuels, and also calling for the development of production of Outer Continental Shelf, Arctic National Wildlife Refuge, and our domestic oil shale resources. Those things will lower crude prices, which will in turn lower the heating oil price.

Chairman KERRY. Well, not according to the experts I have talked to. They don't lower prices. The maximum you might get out of ANWR is a reduction of two cents per gallon, none of which will affect—at its maximum peak pumping, world prices at all. And you can play Outer Continental Shelf games and all that stuff. But we only have three percent of the world's reserves. There is no way three percent of the world's reserves, fully exploited, is going to affect the people who produce 65 percent of the world's reserves. It is just not going to happen. That is not the way the market works.

So this is a phony argument that is being sold to people, and regrettably, when we have tried to do things like a renewable portfolio standard, major initiatives with respect to alternative renewables—we paid for it. We had $23 billion to excite alternative renewables. And you didn't make the decision, but the administration

you work for helped defeat it on the floor of the Senate in favor of fossil fuel oil. Big oil won that battle. So we are not moving $23 billion into incentives for alternatives and renewables.

Unfortunately, the rhetoric has worn short with me. I have been here too long now and I know the difference between solutions and rhetoric. It just doesn't move me. There has just been an anemic effort to try to wean us from foreign oil or to deal with consumer issues and I don't think it is your fault. I think you are trapped because I think OMB and the White House run these things and it is too bad because a lot of good thinking and good civil service manpower gets tied up and put into gridlock, unfortunately.

Well, let me turn to Senator Snowe.

Senator SNOWE. Well, thank you, Mr. Chairman. You make an excellent point. Ultimately, it has resulted in an all or nothing proposition. It requires numerous components for a balanced energy policy that has been totally absent. We have a responsibility on both sides of Pennsylvania Avenue to address that question, but it can't be just one thing or another. It needs a combination.

And that is what was mentioned about the alternatives. You are absolutely right. Here we are in the midst of this year, in the midst of an energy crisis, and we haven't extended the tax credits for renewables. In Maine alone, there is $1.5 billion worth of wind projects pending the extension of the tax credits beyond this year. It doesn't make sense that people buying energy-efficient furnaces cannot take advantage of tax credits. They expired at the end of last year. We cannot reach an agreement on that question. It just doesn't make sense. It just defies logic.

It takes all of these efforts, especially now to have an immediate impact on the price. Whatever we can do for people to divert to alternatives, are doable, including more energy-efficient furnaces, whether it is oil or natural gas or whatever. The point is that people can't avail themselves of these tax credits as they are remodeling their homes, or to weatherize their homes. They just can't do it because it has expired because there is resistance on the part of some who just simply don't think it will work. It will work.

But here we are, and the people in Maine are worried about, one, price, which is catastrophic, and two, supply. Do you anticipate that there will be a supply problem next year?

Mr. JOHNSON. Do we anticipate?

Senator SNOWE. Right.

Mr. JOHNSON. It is hard to anticipate. You never know what the weather is going to deal us.

Senator SNOWE. So there is a possibility?

Mr. JOHNSON. There is always a possibility, yes.

Senator SNOWE. Are you concerned about the fact that in terms of production and oil supply, we are dramatically down this year compared to previous years in terms of production, is that correct?

Mr. JOHNSON. I can't answer that. You mean in terms of——

Senator SNOWE. Well, as I understand it——

Mr. JOHNSON [continuing]. Crude oil production, you mean?

Senator SNOWE. Yes, and supply of home heating oil, from 46 million barrels, is that correct?

Mr. JOHNSON. Umm——

Senator SNOWE. To 25 million barrels?

Mr. JOHNSON. Right now, stocks are low of heating oil, correct.

Senator SNOWE. Yes, and why is that the case?

Mr. JOHNSON. Well, I am not an expert on that, but my understanding is there is a lot more refining margins in producing low-sulfur diesel, and so a lot of effort is being given to production of low-sulfur diesel.

Senator SNOWE. So more of it is going to production of low-sulfur diesel. Is that price tied? Are home heating oil prices tied to low-sulfur diesel? Why are the prices up, then, for home heating oil?

Mr. JOHNSON. I mean, of course, that is higher than home heating oil, and——

Senator SNOWE. We are paying $4.60. My CAP program for my distributor is $4.89. That is where we stand today, and this is June, approaching July. You don't expect high prices at this point for home heating oil.

Mr. JOHNSON. No.

Senator SNOWE. So can you explain that?

Mr. JOHNSON. I cannot explain.

Senator SNOWE. So people are asking me the question, rightfully, why are prices so high right now? Can you give an explanation to that? I would like to know, because you have had obviously a breadth of experience——

Mr. JOHNSON. That would have to be asked of the Energy Information Administration. I can't answer all those. We have asked the same questions to—because we are trying to buy the 35,000 barrels to replace the oil in the reserve. We are tied to that same market, and we had hoped to be able to buy that 35,000 with the $3 million the Congress gave us. However, we are not going to be able to buy that much.

Senator SNOWE. Because of the price?

Mr. JOHNSON. Because of the price.

Senator SNOWE. So we need to provide additional funding to at least meet the two million in terms of reserves?

Mr. JOHNSON. Yes. We will only be—we will probably be acquiring less than 20,000 barrels.

Senator SNOWE. So that is something that we obviously should work on, to provide additional funding, given the price. But getting back to the question of price, I know what the original legislation called for in terms of releasing supplies from the reserve, and as Senator Kerry was exploring, are there any other options here. That is why I have introduced this legislation with Senator Kerry and Senator Dodd because I do think it is important to change the threshold for release of those supplies.

If, for example, oil approaches $5 a gallon or more. People are rightfully asking that question, too. If it is $4.89 today in June, what is it going to be in September, October, November, December, as we are approaching the winter months? They are logically thinking, could it be worse?

Mr. JOHNSON. Mm-hmm.

Senator SNOWE. So we are where we are today, and that is catastrophic. It will be absolutely devastating if they are going to approach $5 or beyond. So, that being the case, is the administration prepared to handle those who cannot afford to purchase it? Even with the standards for low-income fuel assistance, which the in-

come eligibility standard is $13,000, if the people of Maine and throughout New England have to pay upwards of $5,000 to heat their homes, if you are talking about an average of $850 or $1,000, depending on the size of your home and whether it is energy efficient and so on, you are talking $5,000. There will be a major disruption of supply to the home. People are just not going to be able to afford it. What then do they do? What are we prepared for, because that will be a crisis.

Mr. JOHNSON. Well, I am not sure what this program can do about that. I mean, that is a bigger issue.

Senator SNOWE. So I think the question is, there is a possibility the price could be higher, would you agree?

Mr. JOHNSON. Right.

Senator SNOWE. And there is a possibility there could be a challenge to supplies. There may not be adequate supplies next winter, that is a possibility?

Mr. JOHNSON. We think there will be enough supplies for the winter. There will be production of heating oil and suppliers will——

Senator SNOWE. Given this dramatic drop in supplies this year, and dramatic drop in production, does that compare to previous years in terms of the production that has declined for home heating oil currently?

Mr. JOHNSON. Well——

Senator SNOWE. How does that compare to previous years?

Mr. JOHNSON. I can't answer that.

Senator SNOWE. How are they going to make up for that lack of supply? If they have reduced their production currently and we are already down compared to previous seasons, dramatically in terms of the number of barrels available for our nation's supplies, how do we make that up?

Mr. JOHNSON. Again, that is a question that is more appropriate for the Energy Information Administration.

Chairman KERRY. Okay. Speaking of the Energy Information Agency, they stated that based on supply and demand, the price should be about $90 per barrel. He further stated there has clearly been a surge in money coming into the commodities, including energy, which has had some upward effect on the price above the trend line. Would you disagree or agree with Mr. Caruso on that in terms of the role that speculation has played in the pricing of oil?

Mr. JOHNSON. I am not equipped to agree or disagree. I live with the Energy Administration's information, too.

Senator SNOWE. What advice do you give to the administration with respect to what is impending with the reserve and price?

Mr. JOHNSON. We monitor the situation of the—as to disruptions in the Northeast, okay. We manage the Northeast Home Heating Oil Reserve. We make sure we are ready and able to respond to any supply disruption in the Northeast that would indeed—that people would actually be running out, not due to prices, but due to weather-related disruption, so that we could make a recommendation that the reserve should be released.

Senator SNOWE. But at which point do you make that decision? My concern is this. From October 2007 to May 2008, supplies of

home heating oil reduced by more than half, from approximately 46 million barrels to about 25 million barrels. Production currently is down 400,000 barrels per day over last year. Where is the tipping point here? At what point do you realize that supplies aren't adequate to make a recommendation?

We need to have a response plan, is what I am saying. We have to have a response plan in terms of price and in terms of supply, because oil is a basic commodity. It is the difference between life and death. That is the point. People could freeze to death, and they are making unconscionable choices.

I already heard those unconscionable choices before last winter, when oil was $2.79 a gallon, depending on where you were in the State. Today, we are talking double the price. So where are we? Oil is a fundamental commodity and it affects the personal well-being, not to mention the economic well-being of this country. So we need to have a response plan, because there are going to be people beyond the threshold of low-income fuel assistance, which isn't even adequate—and I want to get into that and discuss that with the second panel. But the point is, that won't even be adequate to help those individuals, let alone those individuals who make more than $13,000 to pay for their $5,000 home heating oil bills.

This will be devastating, and that is the point. It will be. It is a national emergency, considering what we know today and what we can anticipate for the future. We have got to prepare for the worst-case scenario, and that means lead time and preparing and pre-planning. So that is what I am encouraging and urging you in your conversations, discussions, and recommendations, and looking at that supply just here and now with what is going to happen next winter and what people are thinking.

I am getting asked this every day. I am being asked to give advice on whether or not they should lock into a price, the current price. I mentioned that in my statement. People are deciding, should we lock into a price at whatever it is, depending on the CAP program? Is it $4.70, $4.89? Or do I wait and hope that the price will drop? And they are going to have to have a time constraint here in making that decision. Some distributors are not even doing it this year, they can't afford to, or can't get insurance to do it, if they are still in business. So would you recommend people lock into a price today?

Mr. JOHNSON. I can't make a recommendation on that. I don't have a crystal ball.

Senator SNOWE. Okay. So you see the scope of the decisions and the challenges here——

Mr. JOHNSON. Oh, yes.

Senator SNOWE [continuing]. And the range. We have experienced the previous price problems in 1979, the gas lines, as we all remember that, in 1979, 1980, 1974. Now we have got this dimension of a problem and it is historic. I suggest that the administration begin to plan for all these potential contingencies, because they are life threatening and do basically mean the difference between life and death.

So I appreciate you being here today, Mr. Johnson. Thank you.

Chairman KERRY. Well, thank you, Senator Snowe. I think that was an important line of questioning.

Mr. Johnson, I know you have been at the DOE since about 1979 and you were very instrumental in helping to set up this reserve program. I don't mean any disrespect, but I do have a sense that you sit there and interpret your job in the narrowest sense, which is if there is a weather-related interruption or if a ship somehow doesn't get in, that is the interruption. But you don't interpret it in the context that Senator Snowe has just described, where you have production down, where you have an interruption in what is the standard flow of the supply. And that interruption is going to have an impact that she has described. Do you not accept that?

Mr. JOHNSON. I accept it, but to do anything, I would have to—be a market intervention, and I am not—we are not equipped to intervene in the marketplace like that.

Chairman KERRY. Even though the supply is down, even though there is an interruption in the normal flow of produced heating oil, why does that not qualify?

Mr. JOHNSON. Well, I have no authority in that area.

Chairman KERRY. Well, isn't the reserve set up to——

Mr. JOHNSON. I mean——

Chairman KERRY [continuing]. Intervene in the event of an interruption in the supply?

Mr. JOHNSON. Sure, in releasing——

Chairman KERRY. Isn't that what Senator Snowe has described?

Mr. JOHNSON. But our action is to release oil reserves in the event of a supply disruption that is going to leave the people without fuel. Yes, in that situation. But like I said, at the end of the season this last year, it was very much a concern how low the supplies were up there and industry did respond. Industry came and kept ships coming in and kept the supply coming while the winter kept on into March. But——

Chairman KERRY. Well, let me suggest this. Can you stay here and listen? I want you to listen to the testimonies of the people who are on the second panel.

Mr. JOHNSON. Okay.

Chairman KERRY. And I would like you to take a summary of what they say back to the DOE. I am going to ask Senator Snowe if she would join me in writing a letter to the Secretary in which we describe what is now teed up to happen in New England in the fall if we don't straighten this situation out somehow, or if we can't guarantee a better line of supply right now that is going to somehow affect the price, because we are looking at some very tough stuff for people. And I hope people will take note that on this warm June day, we are sitting here talking about this well ahead of time.

So I thank you. I thank you for staying. I think you will find it interesting to listen to these business folks who are out there struggling.

Mr. JOHNSON. Okay.

Chairman KERRY. And then maybe we can work on some remedy to this language issue that you are talking about.

So if I can invite the second panel up, please, we will try to make this transition as quick as possible. And I am going to leave Senator Snowe just for a couple of minutes. I have a judge back here I have to go back and visit with for a few minutes. If she could

begin the process of your testimony, I will be right back. Is that okay?

Senator SNOWE. Yes.

Chairman KERRY. Thanks.

Senator SNOWE [presiding]. Our second panel features a group of people who can collectively give us a pretty complete picture of the heating oil crisis and how to address it.

First, we are going to hear from Jennifer Brooks, the Community Relations Manager for Penquis, a nonprofit organization in Maine.

Our second witness is Sandra Farrell, owner of Northboro Oil Company in Massachusetts.

Next, we will hear from Michael Ferrante, the President of Massachusetts Oilheat Council, who is also representing the New England Fuel Institute.

Finally, we will hear from Michael Stoddard, Deputy Director and Attorney for Environment Northeast.

I thank all of you for being here and I look forward to hearing your views. We thank you for taking the time. Your complete testimonies will be submitted for the record. Thank you.

Jennifer, will you begin?

STATEMENT OF JENNIFER BROOKS, COMMUNITY RELATIONS MANAGER, PENQUIS, BANGOR, MAINE

Ms. BROOKS. Good morning. Thank you for taking time to hear testimony about a very important issue affecting us all, the high cost of energy. There is not a meeting I attend that the topic of the cost of oil is not discussed and the statement made, what are we going to do?

More than 70 percent of people own their own home in Maine. In Penobscot and Piscataquis County, there are more than 15,000 owner-occupied homes that were built prior to 1950. Twenty-eight percent of those homes are considered poorly insulated. Four out of five Maine households heat their homes with oil. The average cost of oil in Eastern Maine is $4.65 per gallon. The average household in Maine uses 900 gallons of oil per year. That is $4,185. The average household income in Penobscot County is approximately $36,845. In Piscataquis County, it is even less.

Eastern Maine has suffered the loss of major employers located in very rural communities. With few opportunities for new employment, workers are left with only one option, to travel long distances for work. Gas is at an average of $4.10 per gallon.

If small businesses are the backbone of the United States economy, in Maine, they are the lifeline. Ninety-seven percent of all businesses in Maine are considered small. Many of those businesses, however, are much smaller than the SBA's definition of small businesses. In our region, microenterprises account for more than 25,000 jobs. In Knox County, microenterprises account for 30 percent of the workforce. With the high energy costs facing these microenterprises, they are truly startling.

However, they are not alone in their inability to handle the high cost of fuel. Recently, Katahdin Paper in Millinocket announced it's closing due to the cost of energy. Two hundred people may lose their jobs.

Last year, Penquis provided the LIHEAP funding to 9,078 households but denied 2,151 households. Sixty percent of those denials were due to the households being over-income. The average benefit amount was $736. That is 158 gallons of oil at the cost right now. In order to qualify for LIHEAP this upcoming season, a family of four has to earn less than $31,800. Penquis administers a Good Neighbor Fund that provides fuel assistance to individuals who do not qualify for LIHEAP. That is funded by private donors.

Last year, people who could not afford to purchase oil utilized other heating sources, such as small electric heaters, improperly installed wood stoves, even leaving their cooking oven on and open. Between October and April, Bangor Hydroelectric Company is prohibited by State law from disconnecting electricity for nonpayment. Many individuals resorted to heating by electricity. In April, Bangor Hydroelectric Company mailed 46,000 disconnection notices, representing 39 percent of all of its customers.

While low-income individuals in our State clearly have an extremely hard time with these price increases, moderate-income families that are above traditional public assistance eligibility guidelines are at the greatest risk if there is not a deliberate and rapid change in eligibility. They will be driven into poverty very quickly. Any public program or assistance offered in response to the current energy crisis must be made available on a sliding benefit schedule that will allow people up to 100 percent of area or Statewide median income to receive some benefit.

We should increase LIHEAP funding to reflect both the percentage increase in the cost of home heating oil and the increase in need; provide grants, no-interest loans, and tax credits to small businesses to upgrade or convert their existing heating systems; continue to fund the SBA's microloan program, allowing a simple loan process and providing technical assistance to the many microenterprises; increase weatherization funding to weatherize the homes of all families at or below 100 percent of the area or State median income by 2015; and underwrite the costs of converting to non-petroleum heating systems for families at or below 100 percent of the area or State median income.

Before I conclude, I want to leave you with a few stories. These types of situations are everywhere in Maine. You could not open a newspaper last winter without a story about a family and a struggle to keep warm, a fire, some sort of tragedy. These are two families that we were able to help through the Good Neighbor Fund. Like I said, there were so many others that we could not.

Ruth and her husband are in their 60s and Ruth has cancer. They have closed off part of their house to conserve energy. They receive Social Security and their medical bills are mounting. They owe the oil company for deliveries already made and cannot charge any more deliveries. They were $400 over the LIHEAP income and could not receive the town assistance.

Chris had worked all of his life until last winter when he was laid off. He ordered 50 gallons of oil at a time, but paid a hefty delivery charge. Swallowing his pride, he applied for LIHEAP, only to learn that he was over income due to wages prior to his layoff and his unemployment benefits.

Thank you very much.

[The prepared statement of Ms. Brooks follows:]

Jennifer Brooks
Community Relations Manager
Penquis

Chairman Kerry, Senator Snowe and Members of the Committee, it is my pleasure to submit written testimony to your committee today. My name is Jennifer Brooks. I am the Community Relations Manager for Penquis, the Community Action Agency serving Penobscot, Piscataquis, and Knox counties in Maine. The mission of Penquis is to assist individuals and families in preventing, reducing, or eliminating poverty in their lives and, through partnerships, to engage the community in addressing economic and social needs. Penquis primarily serves low- and moderate-income individuals in the above mentioned counties and several programs extend well beyond those boundaries.

Prior to my work as the Community Relations Manager at Penquis, I provided oversight to the economic development programs administered by Penquis. Those programs included technical assistance, classroom training, and lending for microenterprises in Maine. Additionally, I serve as Chair for the Penobscot, Piscataquis, and Knox County Transition Teams that provide coordinated assistance to displaced workers.

I want to thank you for taking time to hear testimony about a very important issue affecting us all, the high cost of energy. There is not a meeting I attend, whether the focus is housing, healthcare or small businesses, that the topic of the cost of oil is not discussed and the statement made,"What are we going to do?" .

Let me first give you a picture of the State of Maine. Maine is a rural state of roughly 30,862 square miles, with approximately 41.3 persons per square mile and a significant disproportion of people living in the southern part of the state. Piscataquis County, one of the largest counties east of the Mississippi has only 4 persons per square mile.

According to the Poverty in Maine Report 2006 prepared by the Margaret Chase Smith Policy Center at the University of Maine?, in Penobscot County, the median household income was $36,845, slightly below the 200% poverty level for a four person household.

The median household income in Piscataquis County was almost 22% lower than the state median income, and was the second lowest of any county in Maine. It was 18% below the 200% poverty level for a four-person household.

More than 70% of people own their own home in Maine. In Penobscot and Piscataquis Counties, there are 15,331 owner occupied homes built prior to 1950, 28% of those homes are considered poorly insulated.

4 out of 5 Maine households heat their homes with oil. The average household in Maine uses 900 gallons of oil per year. The average cost of oil at this time in eastern Maine is $4.65. Based on these figures, the average household in eastern Maine can plan on spending $4,185 for heat this coming year.

The Maine Dept of Labor just recently announced that unemployment in Maine has taken an unprecedented increase this past quarter. Over the last four years, Maine has suffered the loss of major employers and more than 500 jobs. In many instances, those closures were located in very rural, isolated communities with few opportunities for new employment, particularly at the same rate of pay. Many workers were left with only one option, to travel long distances for employment. Currently in Maine, gas is an average of $4.10 per gallon.

If small businesses are the backbone of the United States' economy, in Maine they are the lifeline. 97% of all businesses in Maine are considered small businesses. Many of those businesses, however, are much smaller than the Small Business Administration's definition of "small business". According to the Association for Enterprise Opportunity, in the Penquis three county service area, microenterprises account for more than 25,000 jobs. In Piscataquis County and Knox County, microenterprises account for 25.9% and 30.1% of the workforce respectively. Those microenterprises, many of them sole proprietorships, all have fewer than five employees. They are an artisan, a baker, a hairdresser, or a childcare provider. Many microenterprises in our rural areas start because of a lack of options for other employment. They will work hard to keep the business afloat and retain their employees. As the cost of doing business increases due the high cost of heat and gas, these businesses will need to make vital decisions about keeping the business in operation. Right now, Maine is beginning the tourist season. For many of these microenterprises, this is the time of year that they earn a small profit that may carry them through the harsh winter. These microenterprises are not alone in their inability to handle the high cost of fuel. Recently, Katahdin Paper in Millinocket announced its closing due to the cost of energy. The Katahdin Paper closing will result in approximately 200 people losing their jobs.

Penquis, like all community action agencies in the State of Maine, administers the Federal Low Income Heat and Energy Assistance Program (LiHEAP). Last year, Penquis provided LiHEAP fuel assistance to 9,078 households. A total of 11,258 applications were received, with 2,151 households denied LiHEAP. 60% of those denials were due to the household being over income to qualify for LiHEAP. The average benefit amount received by a household was $736. In order to qualify for LiHEAP this upcoming heating season, a family of four must earn less than $31,800. If a household does qualify for LiHEAP and benefits do remain constant, a household can expect to receive on average 158 gallons of oil, not even enough to fill the tank.

In addition to LiHEAP, Penquis administers a Good Neighbor/Keep ME Warm Fund that provides fuel assistance to individuals who do not qualify for LiHEAP but demonstrate need. The Good Neighbor/Keep ME Warm fund relies on private donations from individuals, businesses, and foundations. 560 households received 100 gallons of oil.

According to the Poverty Report cited previously, in 2006-2007 over one-third of households in Maine receiving LiHEAP benefits were elderly (age 65 of older) and the average household income of LiHEAP recipients was $14,342.

Last heating season, people who could not afford to purchase oil utilized other heating sources such as small electric heaters, improperly installed wood stoves, even leaving their cooking oven on and open. Not only are these three alternatives unsafe, they can be costly as well. Between October and April of each heating season, Bangor Hydro Electric Company, the regulated utility serving???, is prohibited by state law from disconnecting electricity for nonpayment. Many individuals resorted to heating by electricity. In April, Bangor Hydro Electricity Company mailed 46,000 disconnection notices to mostly residential customers representing 39% of all its customers.

Solutions.

Before we can discuss solutions to the high cost of oil, we need to recognize the pervasive nature of the energy crisis. Costs of all commodities continue to increase with food being the most frightening. Transportation to work, necessary shopping, and other critical visits will quickly be part of the problem.

While low-income individuals in our state clearly have an extremely hard time with these price increases, moderate income families that are above traditional public assistance eligibility guidelines are at the greatest risk if there is not a deliberate and rapid change in eligibility. They will be driven into poverty very quickly.

Any public program or assistance offered in response to the current energy crisis must be made available on a sliding benefit schedule that will allow people up to 100% of area or statewide median income (whichever is greater) to receive some benefit.

Near-term assistance: increase LIHEAP funding to reflect both the percentage increase in the cost of home heating oil and the increase in need (expanded sliding scale eligibility guidelines)

Long-term investment: provide grants, low/no interest loans, and tax credits to small businesses to upgrade or convert their existing heating system.

Long-term investment: continue to fund the SBA's microloan program, allowing a simple loan process and providing technical assistance to microenterprises. Thank you for your support of the Rural Maine Microenterprise Program as part of the final version of the Farm Bill. That program will provide $15 million over the next four years to assist microenterprises.

Long-term investment: increase weatherization funding to weatherize the homes of all families at or below 100% of the area or state median income (whichever is greater) by 2015 (this is a great economic stimulus program as well as a response to the energy crisis.)

Long-term investment: underwrite the cost of converting to non-petroleum heating systems for families at or below 100% of the area or state median income (whichever is greater)."

While it is essential to the well-being of every person that changes are made, developing policy responses and practical solutions are even more critical to the well-being of those in greatest need -- low-income families -- as the cost of fuel reaches a crisis in the State of Maine.

Thank you again, members of the Committee, for the opportunity to testify on this very important subject.

Senator SNOWE. Thank you.
Ms. Farrell.

STATEMENT OF SANDRA FARRELL, OWNER, NORTHBORO OIL COMPANY, NORTHBORO, MASSACHUSETTS

Ms. FARRELL. Good morning. Honorable Chairman Kerry, Ranking Member Snowe, and distinguished members of the committee, I sincerely thank you for the opportunity to speak before you today. Unfortunately, I cannot address every issue that we as small retail heating oil dealers are facing in the brief time that we have here today. However, I can tell you my story. It is a story that resonates with many of us in this business and I am honored to be able to tell it to you today.

My family has owned and operated Northboro Oil since January of 1953. This is our 55th year in business. We are fairly typical of other fuel oil dealers in that we are a multi-generational family-owned business. Growing up, the business was a constant presence in our home. Today, Northboro Oil is no longer run out of the family residence, but we have retained the spirit of the business that my dad bought all those years ago. We are still a relatively small operation, delivering approximately two million gallons of fuel oil every year, servicing 2,400 customers and employing 12 people, and we are still a 24-hour, seven-days-a-week, 365-days-per-year operation.

But something has changed since the days when my father ran the business. Don't get me wrong. We have seen our share of struggles, but the current state of affairs is like nothing we have ever encountered.

I worry for my customers. Some of my customers have been loyal to Northboro Oil since I was a young child and now they have come to me for help. They can't pay their bills and they are scared and angry and confused. Last year, a typical oil deliver was approximately $500. This year, at current prices, it will be $850 to $900 per delivery. It is not uncommon in New England in a cold period of time for a homeowner to receive two deliveries per month. That is going to be $1,700 to $1,900 per month to heat their home.

It is very tough looking into the eyes of these customers when they ask me what I think they should do. I don't know what to tell them. For the first time, I think some of my customers are going to have to choose between essentials to pay their bills. I now face a harsh reality. How can I cut off delivery to people I have known all my life? I can't even begin to imagine. I have made so many exceptions, but if I make too many more, the business won't survive.

And that brings me to my worry over the business. A lot of the money is tied up currently in accounts receivable and relatively little money is coming in. Between the winter of 2006 and this past winter, I have watched my accounts receivable jump up by $300,000 to over $900,000 in February of this winter. It is difficult to afford to offer price protection contracts because the cost of insuring them is prohibitive, not to mention the risk involved in the programs. And I still fear with the price of heating oil at $4.60 a gallon, or more currently, almost double what it was just last year, the worst is yet to come.

Meanwhile, the day-to-day operational costs of running the business keep going up. Hauling fees have increased by 22 percent since 2006, adding an additional $32,000 to my overhead costs. And credit card transaction fees are eating away what little profit I have managed to salvage. And there are my employees. What happens to them if the business starts to go under? As a small business owner, it pains me to think about how my employees and my family will suffer if my business fails.

In short, we are being squeezed from all directions. I have gotten to know and work with many dealers from around New England and I can tell you that I have never met more honest, hard-working, family-oriented individuals anywhere. We truly care for our customers, our employees, and the family members that will inherit our businesses after we are through. But many of us are in serious trouble and more will be if the current situation continues.

A fellow dealer recently said to me, "If I go out of business, I will probably be all right, but what about my niece and nephew? This is all they know."

Thank you, Senators, for listening to me today. I am proud to have been chosen to tell this story and I hope I have made an impression on you today and look forward to your questions.

[The prepared statement of Ms. Farrell follows:]

Testimony of
Ms. Sandra Farrell
Owner, Northboro Oil Co.

Before the
United States Senate Committee on
Small Business & Entrepreneurship:
"Examining Solutions to Cope with the Rise in Home Heating Oil Prices"

Washington, DC
June 25, 2008

Honorable Chairman Kerry, Ranking Member Snowe and distinguished members of the committee, my name is Sandra Farrell, and I am the owner of Northboro Oil Co. located in Northborough Massachusetts. I sincerely thank you for the opportunity to speak before you today on the very hard issues facing small retail heating oil dealers. Unfortunately, time will not permit me to speak to all of the issues we as small business owners are currently facing, but I will do my best to illuminate what I can. This is a subject that is close to me, and I am honored to be given the opportunity to speak to you all today.

Northboro Oil is fairly typical of other fuel oil dealers in that we are a multi-generational family owned business. My family has owned and operated Northboro Oil since January of 1953. This is our 55th year in business. We are a relatively small operation. We deliver approximately two million gallons of fuel oil and diesel fuel every year, service 2400 customers and employ twelve people, nine full-time and 3 part-time. We are a full-service provider, so in addition to delivering fuel oil, we provide emergency service as well as heating system installations, equipment upgrades and air conditioning. 24 hours a day, seven days a week, 365 days a year- we are always open for business.

Those of us in the fuel oil business have seen our share of hardship over the years, challenges brought on by any number of reasons. For example, during the oil embargo in the 1970's we saw high prices due to a lack of supply. But today, our businesses are being threatened not by supply shortages, but by the sheer price of the product. The current price of product is unpredictable and severely volatile. Every day we face increases in the price of fuel, historically high accounts receivables, insufficient lines of credit, shrinking margins due to higher costs of operations and angry customers who believe the small oil dealers like us are raking in the same obscene profits as the "big oil" companies. As a small business owner, it pains me to see my customers suffer and not be able to do more to help.

In my view, the greatest challenge facing fuel oil dealers today is the burden of staggering accounts receivables. The cost of carrying these receivables is enormous, especially if you have had to access a line of credit. I will use my own company, Northboro Oil, as an example. At the end of February 2006 my total receivables were

$618,136.28 as compared to February 2007 when they were $774,745.27. In February of 2008, my accounts receivables totaled $918,749.42. In just two years time my receivables have increased by $300,000.00, just under 30%. Let me try and put this number in perspective. At the end of my heating year, which is May 31st, receivables for the three previously mentioned years were $441,056.26, $535,208.88 and $706,524.30 respectively. This heating year, as of June 20th my receivables are still at $516,000.00. Compare that to the amount of money I have coming in. Last week I had one deposit of $4000.00, and another for $9000.00. My customers are not paying their bills. Pair that with the fact that my suppliers require payment from us within 10 days, and you have an equation that does not add up. Supplier payments are electronically withdrawn from our accounts. Should a payment issue ever occur where the amount in our account was insufficient to cover the cost of the product we purchased ten days earlier, you can be sure that our suppliers would immediately shut us off. We will struggle for the rest of the summer and into the fall trying to collect this money. But remember, the receivable figures I gave are based on last year's heating oil prices when one half of my customers were at a fixed price of $2.799, and the other half paid a daily rate averaging $3.50 per gallon. Today's rate for home heating oil is $4.599. If a percentage of my customers could not pay last year's bill, how are they possibly going to pay this year's? And how are we, the fuel oil dealers, expected to carry this financial burden? If prices stay where they are today, or worse, if they increase, our receivables will be unthinkable. Many of us dealers could lose our businesses.

Another area of great concern for us is the high costs and risks of hedging that are associated with the implementation of price protection plans. Historically oil was delivered at the daily market rate. This worked well when fuel prices were stable, but as the price of oil became more volatile, consumer need spawned the introduction of price protection programs. These programs are created by purchasing oil futures contracts over the course of the winter months, adding our margin to that future rate, and offering a fixed rate. When the price of oil rises above the fixed ceiling price, the customer is happy because they feel they are getting a deal. But when the price runs lower than the fixed ceiling, the customer feels cheated. Unhappy customers in this business usually mean lost revenue, and if a customer abandons the program, the dealer is left holding the bill. Hedging would typically protect us from this type of risk. A while back it cost a dealer about 2 cents per gallon to protect against the cost of oil exceeding the cap price of a customer contract. But as the price of oil rose, so did the cost of hedging. Two years ago hedging insurance cost 18 cents per gallon. I was forced to start charging customers for the program. Last year the prices were so volatile, I hired a hedging company to create a program covering 1,000,000 gallons. It cost me $170,000. To create the same program this year with the increased cost of fuel and risk in the market would cost a minimum of $400,000. Needless to say I can not afford to do the program this year, and it is my customers who will suffer.

Day-to-day operating costs have also substantially increased. I hire a hauling company to transport oil from Boston to my bulk plant in Northborough approximately 35 miles. In October 2006 my hauling fee for a 10,000 gallon delivery was .0385 per gallon or $385.00 per load. At that time there was a 20% fuel surcharge applied for an additional

$77.00 per load. So my costs rose from $.0385 per gallon to $.046 per gallon. In October 2006 my fee remained .0385 per gallon but with a 25% fuel surcharge for an additional $96.25 per load or $.048 per gallon. In April 2008 the fuel surcharge was 35% or $134.75 per load, $.052 per gallon. In May 2008 my surcharge was 42% or $161.70 per load, $.055 per gallon. This current fuel surcharge adds up to an extra $32,340.00 per year for hauling costs alone.

The cost of transportation diesel hurts too. My company has 4 fuel oil delivery trucks which traveled a total 23, 638 miles last heating year. In June 2007 our retail price for diesel fuel was $2.889. At an estimated five miles per gallon fuel costs are $13,656.30. In June 2008 our retail price for diesel fuel is $4.929. At an estimated five miles per gallon costs are $23,299.38. That's an approximate increase of $9,643.08 per year for fuel delivery costs, and I am not even including the eight service vans we have on the road every day.

Other overhead costs that are of great concern are the fees associated with credit card transactions. Unfortunately credit cards are a reality in our collection efforts, and the additional squeeze they are putting on our already tight margins are burdensome. Last year a typical delivery of $502.00 at a MasterCard rate of 2.2% came to $11.29. Currently that same delivery is $847.00 at 2.2% is $19.00.

Finally, I must speak to the impact the high price of oil is having on my relationships with my customers. These people that I deal with every day are resigned, angry and frightened. The customers who are resigned just figure this is what it is. They don't like it but they will manage to pay it somehow. The angry customers are just that, angry. Some of them will call and rant and rave but then apologize because they know it is not us controlling the price. Others have accused us of being sneaky, holding their delivery ticket on purpose to deliver at a higher price. Still others are closing their accounts and going to our competitors or threatening to convert to natural gas. The frightened customers are just downright scared. They may be elderly on a fixed income or have a young family and already working as hard as they can. They have nothing to spare now, never mind next winter when the prices are even higher. Last year a typical delivery was $500.00. This year it will be at least $850.00. It is very tough looking into the eyes of these customers when they ask me what I think they should do. I don't know what to tell them. For the first time I think some of my customers are going to have to choose between main essentials like groceries, gasoline, warm clothes and heating oil just to pay their bills. Even though oil heat dealers run businesses, we are human and so are our customers. Many of them have known me since the day I was born. Sometimes the lines start to blur between being a business and a social service agency. It is painful to have to tell someone when the temperature outside is below zero that we cannot deliver to them because they have no money. I have made so many exceptions, but if I make too many more, the business won't survive.

In summation, small retail Oilheat dealers are being squeezed from all directions. I have gotten to know and work with many dealers from around New England and I can tell you that I have never met more honest, hard working, family oriented individuals anywhere.

They truly care for their customers. Many of us are already in trouble and more will be if the current situation continues. As one dealer recently said to me, "If I go out of business I will probably be alright, but what about my niece and nephew. This is all they know."

Thank you, everyone, for listening to me today. I am proud to have been chosen to tell this story. I hope I have made an impression on you today.

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Senator SNOWE. Well, you most certainly have in the testimony we have heard so far, which is very dramatic and wrenching.

Mr. Ferrante.

STATEMENT OF MICHAEL FERRANTE, PRESIDENT, MASSACHUSETTS OILHEAT COUNCIL, WELLESLEY HILLS, MASSACHUSETTS

Mr. FERRANTE. Yes. Senator Snowe and Senator Kerry, thank you so much for the opportunity to speak before this committee today. My name is Michael Ferrante. I am the President of the Massachusetts Oilheat Council, a trade association representing about 300 retail operations in Massachusetts. We started our operation in 1955 and have seen a dramatic change in our membership in terms of consolidation and the shrinking of our industry.

As Sandra so eloquently said, our dealers face tremendous hurdles today in this energy market. We are proud to have teamed with New England Fuel Institute, who is the largest—they represent the industry regionally, and we are very proud of our work on the speculative side of the market, which we will talk about just briefly here.

The high crude and commodity costs are really the underpinning of what is striking so many people like Sandra. As you so well know, the price of crude has nearly doubled since 2005. On June 6, we saw prices hovering at around $138 per barrel. Those prices are commensurate with the rise in heating oil. The unprecedented crude oil prices have sparked an increase in the retail price of home heating oil in Massachusetts to $4.60 per gallon.

A typical fuel oil dealer like Sandra selling 1.9 million gallons is an average kind of a profile for a retailer in Massachusetts, interestingly enough, about the size of the reserve.

Your comments earlier, both of you articulated very well the impact of the speculative markets on our industry, and that is translated to severely strained credit lines for people like Sandra. As she mentioned to you, her receivables are sky high. A survey last week of our retail board members, about 35 of those folks across the State, indicate that their receivables have nearly doubled. A small Needham, Massachusetts retailer are seeing receivables very similar to Sandra's profile.

And those receivables have also translated to incredibly difficult situations with banking. Credit lines have had to be increased by more than 50 percent, some from $250,000 to the $500,000 level, some from $1 million to almost $2 million to handle the incredible strain on their receivables. Our largest member in Worcester, Massachusetts has had to raise his credit line from $1.2 million to $5 million to cover the cost of fuel.

The overwhelming customer receivables, of course, is significant. Again, the same profile is being reported across the State. Retailers are reporting a dramatic increase in the amount of money that is not coming into the business, and this alone is dramatically as much as a wholesale heating oil dealer requires prompt payment from people like Sandra. So when she purchases fuel oil, a wholesale supplier requires payment for that fuel within ten days. So you can see that the strain on the receivables has a trickle-down effect, one that has had dramatic impact on the industry.

And, of course, bad debt is another issue that is facing our retailers. People simply cannot pay their bills. Not only that, they will not be able to pay at all and may be struggling to simply cover their costs at home. Unlike utilities, our retailers do not have shut-off policies. They prefer to work with customers and develop and establish a credit base, but they are worried about not receiving some payments.

The lack of price protections programming is really an issue that we are facing, and that is dramatic, as Sandra has illustrated, as well. Those programs have become so cost-prohibitive to construct. The insurance, the downside protection to lock in or cap a program has risen from pennies per gallon years ago to 45, 50, even 60 cents per gallon. Based on a contract of 40,000 gallons, that is a staggering amount of money for a retailer to be able to put forward to protect one contract for heating oil. A typical home using 1,000 gallons of heating oil, one contractor would service 40 customers.

The customer relations woes that folks like Sandra are facing are also very significant. They are spending an inordinate amount of time explaining very arcane machinations in the market, taking away from their time that is very much more needed to develop budget plans and work with their customers on installing new efficient equipment.

I must also add that gas utility encroachment is having a severe impact on our industry. The utilities have wasted no time in capitalizing on the high cost of our fuel versus their fuel, which right now has the economic advantage. It is very hard for a small retailer to battle a super-size utility and their marketing programs in terms of conversion. So folks like Sandra are once again facing tremendous hurdles there.

And I must add, the Margin-Over-Rack program for LIHEAP, the leveraging mechanism of a program that we have so stridently supported, we have demonstrated year after year the importance of LIHEAP funding, and our members provide lots of evidence to support that program, but the Margin-Over-Rack program, the leveraging program, that mechanism is really also impacting our bottom lines.

In closing, I want to touch upon just a few points I think that would make for sound energy policy, and you have touched upon a lot of those. Curbing speculation in the market is absolutely key. Providing tax credits for efficiency of equipment is also important. Raising LIHEAP benefits is truly the most significant thing you could do to help those in need.

The SBC charge that the Massachusetts Oilheat Council has proposed in Massachusetts, a very innovative way to help energy efficiency. That would be a utility-type model where we would assess a small assessment on a gallon of heating oil that would fund efficiency upgrades.

SBA loans, Senator Kerry, your work there is significant and we urge you to continue to do that.

The National Oilheat Research Alliance also is another key component of our survival. That program on a national basis has developed incredible programs for more efficient systems. We are burning much less fuel now than we did ever before. And I will say, as well, that the movement towards biofuels, renewable energy, is sig-

nificant in the portfolio of things we need to do to change the entire dynamic, lessen our dependence on fossil fuels, and provide a cleaner-burning fuel for our members.

And I would add one last point. Your whole discussion around the Strategic Petroleum Reserve is an interesting one and I ask you to pursue that vigorously. It is a small yet substantial pool of heating oil, but nonetheless would really have, in our view, if tested, it would be challenging to meet the needs of the Northeast when you consider over ten billion gallons of heating oil make up the oil heat States. In Massachusetts alone, two billion gallons of heating oil are sold annually. So the heating oil reserve would be used up quickly in a time of need.

Just a note on suppliers. You have to remember that there are only about ten or 12 key terminals in Massachusetts storing product and those terminals are very resilient inasmuch as providing product to the marketplace. They do a really good job in supplying the retail operations. We have yet to test how the reserve would work with those core terminals in distributing product.

In closing, Senator Kerry, I want to thank you again for your continued work on SBA activities. Senator Snowe, thank you for having this hearing today and thank you for the opportunity to speak to you today.

[The prepared statement of Mr. Ferrante follows:]

Massachusetts Oilheat Council
118 Cedar Street, Wellesley Hills, MA 02481

Testimony of Michael J. Ferrante
President, Massachusetts Oilheat Council
Before the United States Senate Committee on Small Business & Entrepreneurship:
"Examining Solutions to Cope with the Rise in Home Heating Oil Prices"
June 25, 2008
Washington, DC

Good morning Senator Kerry, Senator Snowe and members of the Committee. My name is Michael Ferrante, and I am the President of the Massachusetts Oilheat Council (MOC). Thank you for the opportunity to address your Committee today on the current status of the heating oil industry, and to offer you some insight into how current market conditions have affected home heating oil dealers, especially in light of the fact that many of them are second and third generation family-run small businesses. I have been employed with the Council since 1990, and I must preface my remarks by saying that in my 17 years on the job, I have never seen such a cascading confluence of factors so severely impact so many small business owners.

- **About MOC**

Established in 1955, the MOC is a business trade association for home heating oil, propane and petroleum resellers. The association represents more than 300 companies across the state, including retail and wholesale/supplier operations. Collectively, our members store, sell and deliver nearly 70 percent of the heating oil used statewide. In Massachusetts, about one million homes rely on Oilheat for their source of energy. Several of our members also deliver propane for space heating and many are now marketing bioheat fuel to their customers. The MOC also represents about 2000 licensed Oilheat equipment technicians in Massachusetts, and all of the major Oilheating equipment manufacturers.

Our association is also a key member of the New England Fuel Institute (NEFI), a 60-year-old trade association based in Watertown, Massachusetts which collectively represents over 1,100 heating fuel dealers in the six New England states. As the largest heating oil trade group in the nation, NEFI is a public policy advocate regionally, in the northeast and also on the national level. With all that is happening in the energy markets today, NEFI has developed an expertise in speculative energy trading and the lack of oversight in the energy futures markets, and it leads a broad national coalition that advocates for greater transparency, accountability and oversight in the commodities trading markets.

- **Retail Home Heating Oil Industry Profile**

According to data collected by the National Oilheat Research Alliance – NORA – an organization I will speak more about later in my testimony, Massachusetts is the third largest heating oil state in the country in terms of volume of fuel sold.

About 2 billion gallons of heating oil is used in Massachusetts on an annual basis for residential, commercial and industrial use. About 800 retail home heating oil dealers deliver that fuel statewide and they employ over 6000 people across the Commonwealth. On a national level, there are approximately 9000 retail operations that deliver about 10 billion gallons of home heating oil annually.

There are two kinds of retail operations: full service and discount or cash-on-delivery companies. According to research done in 8 states by the accounting firm of Gray, Gray & Gray in Westwood, Massachusetts the average full service operation has about 1800 retail customers, sells about 1.9 million gallons of home heating oil annually, employs 17 people, has several delivery trucks and service vans, and has a total annual revenue of just under $4 million dollars. Discount or cash-on-delivery retailers are usually one truck operations with one or two employees, many of whom operate out of their homes.

- **The Impact of Rising Energy Costs on Oilheat Retailers in Massachusetts**

1.) High Crude Oil & Commodity Costs:

The historic run-up in the cost of crude oil, and hence the cost of the core refined product that our members sell – heating oil – has had a dramatic impact on almost every aspect of these small business operations. Crude oil pricing has more than doubled over the past three years with prices hovering between $60.00 and $75.00 per barrel in 2005 and 2006, hitting $103.00 per barrel in February 2008, and escalating to a record high of over $139.00 per barrel on June 6, 2008.

These unprecedented crude prices have fueled a commensurate, steady rise in the wholesale price of heating oil. On June 6, for example, heating oil was selling for nearly $4.00 per gallon wholesale on the New York Mercantile Exchange (NYMEX), the world's largest physical commodity futures exchange and the preeminent trading forum for energy and precious metals. The statewide average retail price for a gallon of heating oil delivered by a full-service heating oil dealer in Massachusetts today, according to the state's Division of Energy Resources, is $4.59. It is very important to note that other home energy sources are also edging higher. Over the past month, natural gas prices on the NYMEX have risen almost 40%, and that rise will be reflected in gas heating rates this fall.

These high energy prices have translated into several other major challenges for the retail fuel dealer including:

A.) Severely Strained Bank Credit Lines:

Retail heating oil dealers, like other small businesses, must have a secure relationship with a bank and a line of credit in order to help finance operations. Lines of credit are based on a number of business factors and it can be difficult to get approval for a higher level of credit. With the volatility in the world energy markets over the past year in particular, one can easily see how a limited line of credit for a retail heating oil dealer is quickly exhausted when the wholesale price for heating oil more than doubles. Remaining financially sound is a daunting day-to-day challenge because of the price volatility plaguing crude and heating oil, but nevertheless, this financial strength is crucial in assuring that retailers are able to obtain the product they need for their customers on a timely basis.

In a survey I conducted last week of our Board of Directors, comprised of 35 retail operations in various parts of the state, owners universally report they have had to at least double their bank credit lines to accommodate the higher wholesale cost for heating oil, and meet the prompt payment terms from suppliers. Here are some examples: a small retailer in Needham, Massachusetts has doubled her credit line from $250,000 in 2007 to $500,000 for this year, while a mid-size retailer in Braintree has moved his credit line from $1 million last year to $1.8 million this year, and in Worcester one of the largest retailers in the state has increased his credit line from $1.2 million last year to over $5 million for this year.

B.) Overwhelming Customer Receivables:

High energy prices obviously impact the consumer as well, and most retail heating oil dealers are facing a huge drag on cash flow because customers cannot afford to pay their entire heating oil bill. Customer receivables are at all time highs this year for retailers, and these companies need the cash flow to help pay their business expenses (bank charges, employee salaries/benefits, business insurance, overhead costs, etc.), and to finance future purchases of heating oil from wholesale suppliers who require prompt electronic payment for the fuel.

My survey showed the dramatic change in receivables in a one year period. A Northboro, Massachusetts retailer reported March 2008 receivables of $912,000, compared to $749,000 in 2007 and $615,000 in 2006. A South Weymouth, Massachusetts retailer reported receivables for May 2008 at $1,934,000 versus $426,000 for the year before, while a Stoughton-based retailer reported receivables for this May at $672,000 versus $372,000 in 2007.

In an effort to help ease this problem, most of those surveyed have instituted 12 month budget plans for customers or are in the process of converting all of their customers to 12 month plans.

And of course, bad debt – customers who will not be able to pay the balance of their heating bills – will also have a severe impact on some retailers' bottom lines. Unlike the gas and electric utilities, however, who can and will stop providing energy to customers with payments in arrears, retail heating oil dealers prefer working to retain a customer with debt. As a result, heating oil retailers often times find themselves in a catch-22 situation of delivering more fuel at the risk of losing even more money.

C.) Lack of Price Protection Programs for Heating Oil Consumers:

The current state of the home energy markets has also almost completely halted the offering of price protection programs by retailers to customers. Over the past ten years or so, price protection programs have been one method for a retailer to help ensure that heating oil prices remain stable for customers during the heating season. Typically, a retailer would buy heating oil contracts – a contract is 40,000 gallons – during the spring and summer months when wholesale heating oil prices are lower due to less demand. The dealer could use the commodity market to "lock in" or "cap" a price for a customer with the hope of removing any price volatility.

But for the past two years, we have seen wholesale heating oil prices remain high during the warmer months because of high crude oil prices. Most retailers today are fearful of entering into these oil contract buying mechanisms with their suppliers because of market volatility, and because the price for buying "downside protection", or insurance on the investment, has become cost prohibitive. Last year for example, retailers report that the cost per gallon to protect against falling prices hovered around 20 to 25 cents per gallon. Today, the same insurance protection costs between 45 to 60 cents per gallon.

D.) Credit Card Fees:

Our members also report that credit card fees are adding further stress to their bottom lines. With processing fees of up to 3%, credit card transactions are eating into retail margins by as much as 15 cents per gallon. Unless those fees come down, some retailers say they will have to start adding a surcharge to cover the costs.

E.) Customer Relations Woes and Negative Public Relations:

With prices high for consumers, retail heating oil dealers and their employees have had to spend an inordinate amount of time trying to assist customers with payment plans, and explain the often times unexplainable volatility in the energy markets. Heating oil dealers must take the time to answer customer questions and complaints; otherwise they may lose these customers to a competitor whose price may be just pennies less per gallon. Additionally, retail heating oil dealers have had to increase their customer communications efforts in order to stave off unwarranted negative public relations regarding the image of "oil" and the misperception that because of higher prices, retail heating oil dealers are amassing vast profits like the major oil companies.

2.) Gas Utility Encroachment:

Amidst all the challenges, the Oilheat industry is also facing an increased onslaught of competition from the gas utilities. For years, the Oilheat industry has had to battle the gas utilities who seek to convert Oilheated homes to gas heat with free or discounted heating systems that are subsidized by existing natural gas customers. This year in Massachusetts, the state's largest gas utility has wasted no time in capitalizing on the historic rise in home heating oil prices. With the statewide average price currently around $4.60 per gallon from a full-service heating oil dealer, National Grid, who recently absorbed KeySpan, has launched an aggressive multi-media ad campaign targeting Oilheat customers. The ads, which encourage conversion to natural gas, make some very deceptive if not outright false claims as to the benefits of natural gas versus Oilheat.

Unfortunately, while the Oilheat industry has made significant progress in manufacturing more efficient equipment and significantly reducing greenhouse gas emissions with low sulfur fuels and bioheat, we lack the collective financial resources necessary to combat super-sized utilities with multi-million dollar rate-based sales and marketing campaigns.

3.) LIHEAP – State Margin-Over-Rack Leveraging Programs a Strain:

The Low Income Home Energy Assistance Program (LIHEAP) has been invaluable in providing home energy cost assistance to elderly and low-income households. Since the inception of the federal LIHEAP program in 1981, the Oilheat industry has been a staunch supporter of LIHEAP and the Weatherization Assistance Program (WAP). MOC, along with NEFI has advocated for a fully funded LIHEAP in the amount of $5.1 billion and WAP at $700 million. Additionally, MOC has consistently worked with state officials in order to ensure a healthy and effective energy assistance program in Massachusetts. MOC and its member companies have also teamed with local charities, non-profit programs, and other efforts to help needy households in the face of insufficient government fuel assistance resources. MOC is proud to have helped former Massachusetts Congressman Joe Kennedy launch and implement his successful Citizens Energy heating oil assistance program.

However, the very structure of LIHEAP is placing disproportionate strain on heating oil retailers in states like Massachusetts where "leveraging" is used to garner additional federal funds. In Massachusetts, the leveraging program for fuel oil and propane (often called "deliverable fuels") is a discount program called Margin-Over-Rack (MOR). For retail heating oil dealers involved in the LIHEAP program, the MOR program pays the fuel dealer the lesser of either a set margin per gallon or their regular retail price on the date of delivery. By accepting a lower profit margin, retailers must take a hit on their already marginalized bottom lines. MOR places tremendous financial risk on fuel dealers and makes it more difficult to remain competitive and profitable amidst volatile oil prices.

Although state regulated gas and electric utilities also contribute to the leveraging program, they can recoup any loss by running the contributions through their individual state ratemaking process, in essence passing the cost along to all of their customers. Heating oil retailers do not share this ability, thus placing them at a competitive disadvantage. Additionally, MOR puts the oilheat retailer at odds with the fuel assistance program administrators they have supported for decades. And finally, since LIHEAP only pays a portion of a recipient's household energy cost, the Oilheat dealer must then shift the customer to a more realistic market-based cost-per-gallon when LIHEAP benefits end. This shift unfairly creates a new class of customers for retail heating oil dealers.

The Burden Federal Regulations Place on Small Business Oilheat Dealers

1.) HAZMAT Registration Fees:

On top of the previously mentioned obstacles our retail dealers face today, there is additional weight from overly-burdensome federal regulations. Most heating oil retailers pay an annual fee to the Department of Transportation (DOT) for their company's annual HAZMAT registration. Currently most pay either $275 or $1,000, depending on the size of their business. The DOT is planning to drastically increase the latter fee for "large companies" by as much as $2,000. Due to a glitch in the way those heating oil dealers are currently classified, many may be subject to this increase and forced to pay the larger amount. The fee also makes it more difficult for dealers to receive federal loans and increased lines of credit with their banks and suppliers. Currently, the Small Business Administration (SBA) classifies heating oil dealers as large businesses if their gross receipts exceed $11.5 million per year. MOC and NEFI have communicated the inadequacy of this threshold, due mainly to the rising cost of product, and have requested that the SBA reclassify heating oil dealers (and propane dealers, which are subject to a $6.5 million threshold) to an employee-based threshold. The SBA has begun the rulemaking process, but it is delayed.

2.) TWIC Program:

The Transportation Worker Identification Credential (TWIC), required by the Transportation Security Administration (TSA) has become increasingly burdensome. TWIC requires a background check and worker "ID" for unescorted access to certain secure areas of the nation's maritime transportation system, including the terminals that many heating oil dealers access to obtain product. Therefore, heating oil transporters are not only subject to federal and state mandated background checks for HAZMAT endorsed Commercial Drivers Licenses, but they must also undergo a background check and fee for TWIC. This is both costly and needlessly duplicative.

3.) SPCC Requirements:

The EPA's Spill Prevention, Control and Countermeasure (SPCC) poses a major cost burden and regulatory compliance challenge to small business heating oil dealers that have on-site storage. The rule requires specific bulk storage facilities that meet the federal compliance threshold of 1,320 gallons in aggregate above ground storage (or 42,000 in underground storage) to prepare, amend and implement detailed security and emergency contingency plans and new infrastructure requirements in order to plan for the event of an unintended release of product. New amendments to the regulation passed in recent years will become effective on July 1, 2009, and bulk storage heating oil companies are facing tens-of-thousands in infrastructure upgrades, personnel costs and certified engineer expenses in order to comply with the new rule. Additionally, some EPA enforcement officials are interpreting the rule to include parked oil trucks with storage in the calculation for the above ground storage compliance trigger. The average truck contains 2,800 gallons of product. Therefore, many small companies, some of whom simply park their trucks overnight in order to make early morning or emergency oil deliveries and have no on-sight storage, are at risk of a costly enforcement action. MOC & NEFI have reached out to the EPA to resolve this issue, but so far have been unsuccessful.

4.) Transition to Lower Sulfur Distillate Fuels:

While our industry fully supports the move towards low (500-ppm) and ultra-low (15-ppm) sulfur diesel fuel and heating oil, we are wary of the financial implications of requiring their widespread use at this time. Already, the EPA has begun requiring that low and ultra-low diesel fuel be used in on- and off-road diesel engine vehicles and equipment. By December, 2010, the EPA will require that all diesel engine vehicles use ultra-low sulfur diesel fuel (with the exception of locomotive and marine engines, which have until 2012). This transition has already put a strain on diesel fuel prices nation-wide, as well as the availability of high-sulfur distillate fuel, which is afforded a lower-cost spot price differential, and now can be used as heating oil only. While MOC and NEFI recognize that low and ultra-low sulfur fuels hold the promise of greater efficiency and many environmental benefits, it is important to balance these concerns with those of the small business owner. By moving too quickly to lower sulfur heating oil without ensuring adequate supply and without being mindful of the potentially higher costs, lower sulfur products could put an additional strain on the heating oil dealer and their consumers.

- **Industry Efforts to Bring Down Energy Costs, Help Retailers & Consumers, Increase Energy Efficiency and Improve the Environment**

MOC and NEFI have taken real action to come to the aid of our retail heating oil dealers and consumers in the face of extremely high energy costs, improve energy efficiency and protect the environment. The following can be attributed to those joint efforts in Massachusetts and in Washington.

1.) The 2007 Farm Bill:

On June 18th, 2008 Congress passed the $300 million 2007 Farm Bill by an overwhelming margin over the President's veto for a second time, a step made necessary by a clerical error when the original bill was passed. Included in the bill is language that allows for the closing of the notorious "Enron Loophole" – a loophole that allows for profiteering by speculators who operate in unregulated electronic futures markets. Although the 2007 Farm Bill is just one weapon in the battle against excessive speculation and potential manipulation by traders, it is nevertheless an important one. Passage shows the federal government's readiness to address commodity markets trading issues, and their willingness to hold speculators in these markets up to the light of a more regulated exchange. But more needs to be done, including addressing the Foreign Markets Loophole, which allows trading of U.S. destined goods by overseas exchanges under inadequate or non existent oversight, and the "swaps loophole," which exempts index fund and swaps traders from transparency and anti-manipulation rules.

The Commodities Futures Trading Commission (CFTC) must also get tougher on speculative trading and provide rigorous enforcement of existing rules and future authorities granted by Congress. In short, the commodities market is broken, and it needs fixing because the speculative buying and selling is hurting consumers and small businesses alike.

2.) Adequate Federal LIHEAP Funding:

The federal budget now allows for the full funding of LIHEAP and WAP for FY2009. An additional $1 billion in emergency relief funding was authorized by Congress to supplement 2008's budget. While this is very positive news, we will continue to push for additional funding and a change in the leveraging aspects of the LIHEAP statute that make participation in the program difficult for small business heating oil retailers. MOC and NEFI are members of national coalitions and will continue to advocate for strong federal and state energy assistance programs.

3.) The National Research Alliance – NORA:

In 2000, Congress approved Public Law 106-469 the National Oilheat Research Alliance (NORA) – a collaborative program established by the Oilheating industry to strengthen the industry by improving education and training for employees in the industry, providing customers with important energy information, and developing new products for customers. NORA provides the opportunity and ability to work cooperatively for a better and stronger industry. NORA has developed world class education programs, new efficient appliances, and strong consumer education campaigns highlighting the benefits of Oilheat and the need to improve efficiency. Funding for the program comes from a mandatory fee of $.002 per gallon on every gallon of heating oil sold in 22 key participating heating oil states.

Over the last eight years, NORA has done a great deal to help our customers respond to today's high energy prices, including the development of new equipment to ensure peak efficiency and energy savings. For example, NORA grants have been used to create a condensing furnace with a 96% efficiency rating – 13 points higher than the efficiency described by EPA in the Energy Star program. This furnace was the first of its kind on the market to earn a ground breaking Annual Fuel Use Efficiency (AFUE) rating.

Additionally, NORA has developed a downloadable software application – the Fuel Savings Analysis Calculator (FSA) – that retail Oilheat dealers can use to show customers the enormous savings that can occur by upgrading to a new Oilheating system for both heat and hot water.

Finally, NORA has worked vigorously to develop Bioheat as a supplemental domestic renewable resource. Overall, the efforts of the Oilheat industry and NORA are helping to solve issues that will improve efficiency, lower prices and reduce consumption in every household.

4.) Massachusetts Biofuel Mandate:

With the help of MOC, Massachusetts may soon become one of the first big Oilheat states to mandate the use of biofuel - a blend of heating oil and crop-based feed stocks such a soy beans, vegetable and plant oils. Back in November of 2007, Governor Deval Patrick filed legislation calling for a biofuel and biodiesel mandate that would require a 2% blend of biofuel in heating oil by July 2010, with incremental percentage blends of 3, 4 and 5% annually increasing through 2013. In February, MOC's Board of Directors voted unanimously to support the biofuel mandate, and that support has helped the legislation gain momentum.

Since that time, MOC has been intimately involved in the legislative drafting process and we are currently working closely with key state legislators and aides to craft legislation that mandates the use of safe, effective, and high quality biofuel products for Oilheat retailers and consumers.

5.) System Betterment Charge for Oilheat Equipment Replacement:

Last year, in recognition that there are thousands of needy households with older, inefficient home heating oil systems, MOC's Board of Directors voted unanimously to draft a state legislative proposal that would levy a small assessment – one half cent – on every gallon of home heating oil sold in Massachusetts to create an Oilheat equipment upgrade program that mirrors the System Betterment Charge (SBC) used by regulated utilities. The funds would be used only for Oilheat-to-Oilheat system upgrades and 30% of the funds would be set aside specifically for low income families. The legislative proposal is still being considered by lawmakers and MOC will continue to lobby for its passage this year, and if needed, next year.

Senator Kerry, Senator Snow and members of the Committee, I want to thank you once again for the opportunity to testify on the important challenges facing the heating oil industry and heating oil users. I truly hope that my remarks will help in your efforts to find relief for all those impacted by the high cost of energy.

And Senator Kerry, on behalf of the fuel oil industry nationwide, I want to thank you for your diligent work over the years to provide assistance to small businesses through SBA programs, and for your support for the NORA program as one of our lead sponsors when the bill was first introduced, and your continued support for the program as we work with Congress this year on strengthening the NORA statute.

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Chairman KERRY [presiding]. Thank you very much, Mr. Ferrante.

Mr. Stoddard.

STATEMENT OF MICHAEL STODDARD, DEPUTY DIRECTOR AND ATTORNEY, ENVIRONMENT NORTHEAST, PORTLAND, MAINE

Mr. STODDARD. Thank you, Senator Kerry, Senator Snowe. My name is Michael Stoddard. I am an attorney at Environment Northeast, a nonprofit organization that researches and advocates innovative environmental policies. I live and work in Portland, Maine.

Environment Northeast is at the forefront of State and regional efforts to combat global warming with solutions that promote clean energy, clean air, healthy forests, and a sustainable economy. On behalf of our organization, I want to thank this committee for giving us the opportunity to testify today.

In our written testimony, we briefly recap our view of the problem presented by our present lack of tools to control heating oil costs. These include: (1) because petroleum heating fuels must be imported to the Eastern States, more than $11 billion leaves this region each year; (2) demand on Federal fuel assistance for low-income households are rising, but the funds are covering less of the household heating needs; (3) the Federal Weatherization Assistance Project funding is so low it would take 35 years to treat every eligible home; (4) and despite their very good work, these programs do not provide heating help to small business, commercial or middle-income residential customers; (5) perhaps the biggest problem of all is that while customers of electricity and natural gas have access to large and growing energy efficiency programs to help them gain control over their energy costs, heating oil customers do not.

As explained in more detail in our written testimony, Environment Northeast is proposing that the Federal Government and the States coordinate on a major new initiative to help consumers and the U.S. economy gain control over escalating oil and propane costs. Working together, Federal and State government should implement a comprehensive effort to develop and fund energy efficiency programs for petroleum-based heating fuels.

The benefits of a national energy efficiency program for heating oil, kerosene, and propane would be many and include the following: (1) small businesses and commercial property owners and residential homeowners of all income levels will finally have access to energy efficiency programs regardless of whether they use electricity, natural gas, or oil to heat their buildings; (2) individual homeowners can cost effectively cut their energy use by 20 percent, delivering a cost savings of more than $1,000 at current oil prices each year; (3) businesses will cost effectively reduce their consumption and heating bills by seven to nine percent every year; (4) money that formerly left the States to importers can be saved to trickle down into the local economy; (5) good, steady, new jobs will be created for heating system technicians, building contractors, and weatherization specialists.

The heating fuel efficiency programs we propose can be implemented along two paths. For small businesses, commercial and

multi-family building owners, and residential customers other than low-income, every State in the U.S. will offer market-based efficiency programs much like the utility-based programs Michael was describing, designed to function like current electric and natural gas efficiency programs.

Market-based efficiency programs for heating fuels will ultimately require a national budget of around $1 billion annually. It should start low and ramp up to that level over a three- to five-year period. One billion dollars is our approximation of what it would cost to capture all cost-effective heating fuel efficiency opportunities. This is the standard being used in the electric and natural gas programs.

For income-eligible residential buildings, the Weatherization Assistance Program budget should be expanded to around $3 billion per year over five years in order to weatherize every home that receives LIHEAP fuel aid, and that would be whether they receive oil or natural gas or propane or electricity for their heating and cooling.

Opponents of this proposal may try to paint this as a defeatist call for Americans to accept that their only course of action is to use less, spending the winter wrapped in sweaters and blankets and reading by candlelight. Senators, please do not give them the satisfaction of perpetuating this myth. Energy efficiency is not the same as conservation. Energy efficiency means using better technology to get the same amount of output from your heating, lighting, appliances, and business equipment as you did before, but using less energy in the process. It means keeping your living room heated to the same temperature with less energy because you have tuned up your boiler, insulated your attic, and installed a programmable thermostat. Energy efficiency means standing up and taking control of the situation, not sitting back to let the situation control us. The one thing energy efficiency does not mean is making do with less.

So how do we take control? We take control by investing, just the same as electric utility efficiency programs have been doing successfully for decades. We invest tactically to help consumers put energy-efficient products into their businesses and homes. We invest in the difference between the cost of an average product and the cost of a high-efficient product. And for those who are not low-income, we leverage public dollars by cost sharing with the customer.

Energy efficiency programs represent the best traditions of how Americans respond when our country needs to make a major transition. This is one of those times. We need a comprehensive energy efficiency program for those customers who heat their businesses and homes with oil. Thank you.

[The prepared statement of Mr. Stoddard follows:]

Environment Northeast

Michael D. Stoddard
Deputy Director and Attorney

Testimony of Michael D. Stoddard
Deputy Director and Attorney, Environment Northeast

"Solutions to Cope with the Rise in Heating Oil Prices"

United States Senate
Committee on Small Business And Entrepreneurship
Rm. 428A Senate Russell Office Building
Washington, DC 20510

June 25, 2008

On behalf of Environment Northeast (ENE), I am pleased to offer this testimony calling for new state and federal policies to establish and fund major energy efficiency programs that will help Americans cope with the rise in heating oil costs. ENE is a Maine based regional non-profit organization that researches and advocates innovative environmental policies. ENE is at the forefront of state and regional efforts to combat global warming with solutions that promote clean energy, clean air, healthy forests, and a sustainable economy. Our staff of attorneys, policy experts, and environmental specialists work out of offices in Connecticut, Rhode Island, Massachusetts, Maine and eastern Canada.

ENE is proposing that the federal government coordinate with the states on a major new initiative to help consumers and our economy gain control over escalating oil and propone costs. Together, federal and state government should implement a comprehensive efficiency effort in two parts. For income-eligible residential buildings, the Weatherization Assistance Program budget should be expanded to around $3 billion per year over five years in order to weatherize every home that receives LIHEAP fuel aid. For business, multifamily and all other residential buildings, market-based efficiency programs should be run in every state, designed to function like current electric and natural gas efficiency programs, and should be funded with a national budget of around $1 billion annually. These programs will save individual consumers thousands of dollars, save our economies more money than the alternative of continually paying for more oil, reduce the flow of money out of our states to foreign sources of oil, and build jobs by mobilizing and enhancing the existing workforce of heating technicians and insulation contractors.

The Problem

On June 11, the Governor of Maine reported that the statewide average price for a gallon of heating oil had reached $4.60. If consumers want to "lock in" a stable price for the winter ahead, oil will cost

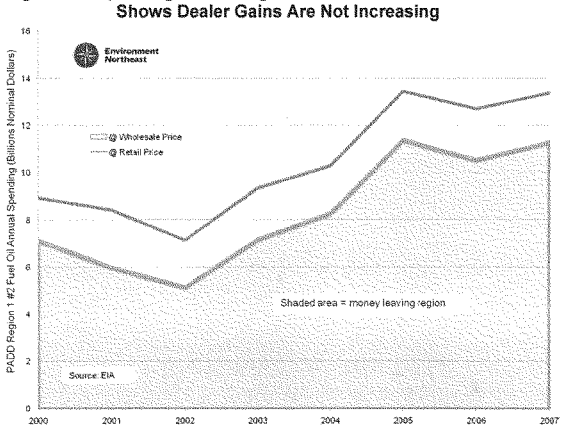
Environment Northeast

$4.70/gallon. Kerosene is selling for $4.98/gallon. The price of heating oil in Maine went up by $1.89/gallon, or 70%, since the beginning of last heating season. In the last decade, the price of heating oil has jumped 360% (from just under $1/gallon in March 1998 to today's price of $4.60/gallon).

Rising prices translate into total cost when multiplied by consumption. By way of illustration, an average residential heating oil customer in New England consumes 1,000 gallons each year. At this month's lock-in price of $4.70/gallon, they will pay $4,700 this coming winter.

Oil dealers are not the culprits. Only a small fraction of what customers pay is going to the local dealers, and their profits have remained constant. Many smaller dealers are struggling to keep up with the rising wholesale prices, as shown in Figure 1, below. Indeed, recent years have seen more than one spectacular collapse of a local oil distributor who folded, leaving hundreds of pre-paid customers with no delivery, no refund, and the need to buy heating oil, a second time, at elevated mid-winter prices.[1]

Figure 1: Spending on Heating Oil at Wholesale and Retail Prices Shows Dealer Gains Are Not Increasing



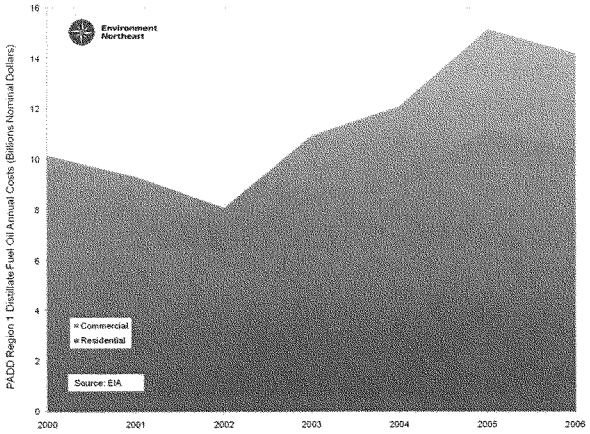
The problem extends beyond just what individual consumers and the oil dealers are experiencing. Because petroleum resources are not indigenous to the Eastern U.S., states in this region must import all of their petroleum-based heating fuels. The result is more than $11 billion per year leaving these state economies, and with it the chance for this money to trickle down into the local economies.

Figure 2, below illustrates the increase in the cost to residential and commercial customers to buy fuel oil in the Eastern US (PADD 1) during this decade.

[1] See Maine Attorney General, Unfair Trade Practices complaint filed against Price Rite Fuel, Veilleux Oil and Perron Oil, 1/22/2008, at http://www.maine.gov/tools/whatsnew/index.php?topic=AGOffice_Press&id=49118&v=article .

Environment Northeast

Figure 2: Annual Cost of #2 Fuel Oil in the Eastern U.S.



The Northeast region is particularly vulnerable to this run up in oil prices since, unlike the rest of the country, most homes and businesses in the Northeast heat with oil (instead of natural gas). Maine has the highest reliance on heating oil in the country, estimated at 80% of all residential units.

Combustion of heating oil also saddles the Eastern US states with about 150 million tons of CO2 emissions each year and a very high level of sulfur dioxide emissions. In Maine and Vermont, for example, home heating oil is responsible for fully one-quarter of the total greenhouse gas emissions. The Northeast states are very vulnerable in a carbon-constrained economy if they remain 70-80% reliant on petroleum-based heating fuels.

Clearly, the most vulnerable consumers need urgent financial assistance to help pay their fuel bills. This can help them get through one winter. Responding to this crisis by throwing money at the fuel bill is a quick fix with no exit strategy, because the consumer will be in the exact same situation next year and the year after that. It is not a lasting or sustainable solution for the consumer or the government programs supporting them.

A Solution to Help Consumers: Increasing the Efficient Use of Energy

A more sustainable solution to the oil heat crisis is for federal and state governments to collectively establish a comprehensive new effort to develop and fund energy efficiency programs for petroleum-based heating fuel consumers in the United States. The program must begin immediately and be sustained over a multiyear period to provide consumers with relief from the tremendous costs they are bearing. The most effective response to this crisis is to help consumers use energy more efficiently.

ENE recommends two paths for implementation of efficiency programs for non-regulated heating fuels. First, small businesses, commercial building owners, and residential customers other than low-income,

we recommend establishing market-based efficiency programs along the lines of the electric and natural gas programs that have such a successful history of saving consumers money through cost-effective efficiency investments. Second, for income eligible customers, we recommend a dramatic expansion of the WAP funding and continuation of WAP weatherization programs.

A. Building on the Success of Programs for Electric and Natural Gas Customers and Federal Weatherization Programs

Consumers of electricity and natural gas have had access to large and growing energy efficiency programs for many years, and have benefited by using these programs to gain control over their energy costs. It is past time for consumers of the unregulated heating fuels – petroleum-based fuels such as fuel oil, kerosene and propane – to get similar access and similar benefits.

Revisiting the example of an average Maine homeowner, if we help these consumers to use their heating energy more efficiently, they can cut their consumption by 20% and lower their bill by more than $1,000 this year and every year thereafter. For a typical Maine commercial building, we have seen efficiency plans that would reduce the heating bill by 7%-9% each year.

The best established and most successful of these models are the utility-based energy efficiency programs which are developed and supervised at the state level. Many states, which have jurisdiction over electric and natural gas distribution utilities, have decades of experience implementing statewide energy efficiency programs for electricity and natural gas customers. Best practices for program design, delivery oversight and evaluation are increasingly well understood and institutionalized at the state level. Financial incentives for customers are generated through self-sufficient revenue streams built into ratepayer bills or integrated directly into the utilities' resource procurement plans.

Electric and natural gas efficiency programs across the U.S. invested $1.3 billion in 2007[2] to help consumers reduce energy consumption through activities such as upgrades to more efficient light bulbs, appliances, air conditioners, motors and the like. Top-ranked programs, such as the electric program in Connecticut, typically deliver a savings of $4 for every $1 of program investment. The total levels of investment vary from state to state, and traditionally have been limited to what was deemed politically appropriate, as shown in Table 1.

Table 1 - 2007 Annual Spending on Electric Efficiency Programs, Selected States

2007	CT	ME	MA	NH	RI	VT	CA
Total Spending ($Million)	$103.7	$16.6	$122.0	$18.9	$21.8	$23.8	$1,027.7
Spending per Capita ($/capita)	$29.6	$12.6	$18.9	$14.4	$20.6	$38.3	$28.1

Recently, however, the fact that energy efficiency resources can deliver the same functionality to consumers at a fraction of the cost of conventional electric supply has forged a consensus that efficiency should be the preferred resource. In order to fully harvest the "efficiency resource," electric utilities in California, Connecticut, Maine, Rhode Island and Vermont have committed to expand their efficiency programs to levels sufficient to capture "all cost-effective" efficiency resources, where such resources are

[2] Consortium for Energy Efficiency, Energy Efficiency Programs: A $3.7 Billion U.S. and Canadian Industry, available at: http://www.cee1.org/ee-pe/2007/index.php3 .

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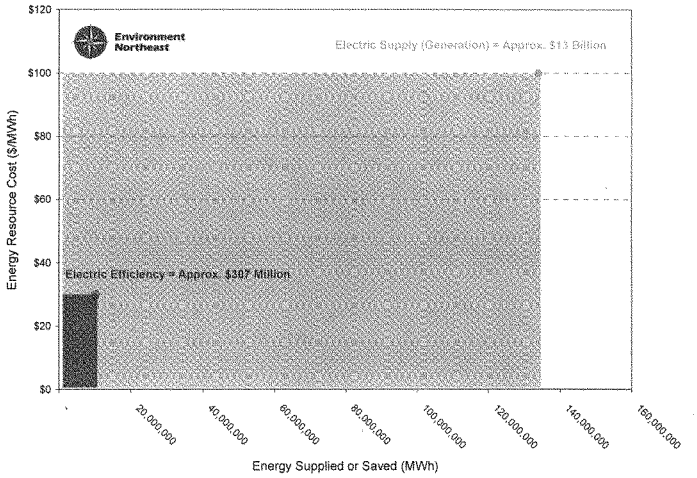
reasonably available and the cost to capture them is cheaper than regular electric supply. Figure 3, below, illustrates how even for electric customers we have been investing in the wrong resources, with overinvestment in supply at high cost versus energy efficiency at low cost.

Figure 3: New England Electric Supply Costs vs. Efficiency Investments



To appreciate the impact of this shift to investing in all cost-effective energy efficiency, consider the recent experience in Connecticut, where the electric efficiency programs have historically enjoyed among highest per capita funding levels in the country. When directed to capture all cost-effective efficiency resources, the utilities calculated that their investment levels should triple over the next eight years, as shown in the table, below.

Table 2: Connecticut Budget Ramp Up for Electric Energy Efficiency Programs Needed to Capture All Cost Effective Efficiency Resources, as Calculated by Connecticut Utilities

	2007	2008	2009	2010	2011	2012	2013	2014	2015
Total Budget ($Million)	$112	$116	$135	$177	$236	$296	$336	$352	$338

This increased investment will save consumers billions of dollars and avoid the need to build new electric generating capacity. Figure 4, below, illustrates the benefits of the proposed level of spending in Connecticut in terms of total statewide avoided capacity and annual savings in energy consumption.

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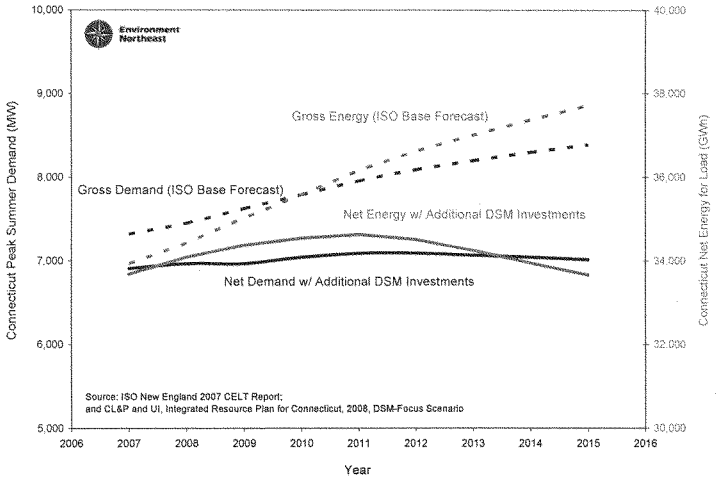
Figure 4: Impact of CT Utilities Proposed Efficiency Investments on State Energy Use and Peak Demand



Natural gas efficiency programs in the U.S. have also proved very successful and provide a close analogue for potential petroleum heating fuels efficiency programs.

The current Massachusetts natural gas energy efficiency programs administered by the utilities also deliver significant benefits. The following are the results from one utility, KeySpan, for one year spanning 2005 to 2006. Many of the gas utility programs are run through a joint program known as GasNetworks and should deliver similar results.

- KeySpan invests ~$12.6 million per year with total savings to consumers exceeding ~$73.4 million;
- For every $1 invested by utilities and customers, more than $2.7 are saved;
- The efficiency programs deliver energy savings at about $2.6 per thousand cubic feet (Mcf) (or $0.25/therm) while energy supply costs customers about $11/Mcf (or $1.1/therm);
- The natural gas efficiency programs deliver similar benefits to the electric programs in terms of energy independence, job and economic growth, and reduced emissions; and,
- The KeySpan natural gas efficiency programs save over 600 thousand tons of CO_2 every year the programs are run.

Table 3 shows the investment levels of several states for natural gas efficiency programs.

Table 3: 2007 Annual Spending on Natural Gas Efficiency Programs, Selected States

2007	CT	ME	MA	NH	RI	VT	CA
Total Spending ($Million)	$4.0	$0.7	$26.8	$2.4	$0.0	$1.6	$182.5

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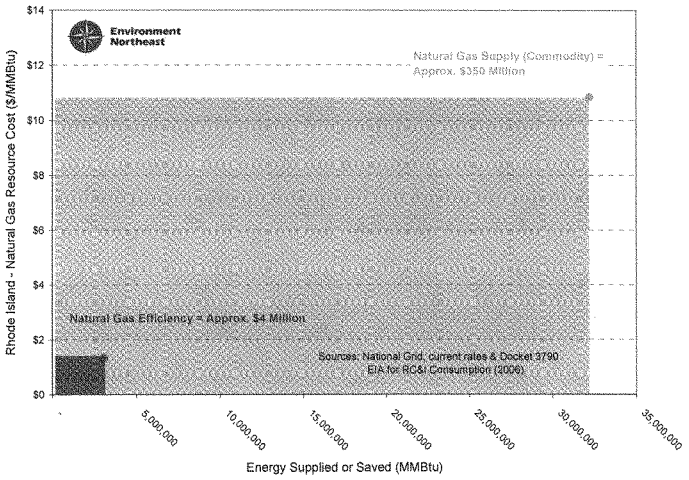
However, we know that we are significantly under-investing in efficiency resources for natural gas customers. The following figure illustrates our over-investment in supply at high cost versus energy efficiency at low cost, using Rhode Island as an example.

Figure 5: Rhode Island Natural Gas Supply Costs vs. Efficiency Investments



As part of the evaluation of the elements of Connecticut's Climate Change Action Plan 2005, Regional Economic Models, Inc. (REMI) performed an analysis of natural gas and heating oil conservation programs funded from a 3% surcharge on customers.[3] The projected economic benefits to Connecticut for efficiency programs for natural gas and heating oil, funded at a minimum 3% level, are summarized in Table 4. These programs provide real economic benefits to the state through the substitution of local energy service jobs for high cost fuel.

Table 4: REMI Modeling Results for New Efficiency Programs in Connecticut [4]

Natural Gas Program	**2010**	**2020**
Cumulative Program Costs	$205 Million	$462 Million
Cumulative Program ***Savings*** (Energy Only)	$979 Million	$3,483 Million
Benefit – Cost Ratio	4.8	7.5
Increase in Employment		1,668
Increase in Gross State Product		$1.8 Billion

[3] Governor's Steering Committee on Climate Change, February 2005, *Connecticut Climate Change Action Plan 2005*, http://www.ctclimatechange.com/StateActionPlan.html; the funding mechanism has been changed in RB 6777 to be a charge on a per Mcf and per gallon basis, but the program sizes remain similar to those modeled for the state action plan and modeled economic and environmental benefits should remain the same.

[4] *Ibid.*

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Fuel Oil Program	2010	2020
Cumulative Program Costs	$131 Million	$320 Million
Cumulative Program ***Savings*** (Energy Only)	$319 Million	$1,715 Million
Benefit – Cost Ratio	2.4	5.4
Increase in Employment		430
Increase in Gross State Product		$266 Million

By contrast to electricity and natural gas, the petroleum-based heating fuels – #2 distillate oil (or "fuel oil"), kerosene and propane – are not distributed to customers through regulated utilities. These are sometimes referred to as "unregulated fuels," and customers of these fuels essentially have been without any energy efficiency assistance.

There are some programs that address energy efficiency opportunities for all fuels. The critically important Weatherization Assistance Program (WAP) and Low Income Heating Energy Assistance Project (LIHEAP) deliver energy efficiency funding to a small fraction of income-eligible households. WAP has a budget of $207 million (2008) for this purpose. To its allocation from this sum, each state may elect to add up to 15% of its annual LIHEAP allotment for income-eligible weatherization.

Also, federal policies such as the Non-business Energy Property Tax Credit (Internal Revenue Code Section 25C) and the New Energy Efficient Home Tax Credit (Internal Revenue Code Section 45L) provide valuable financial incentives for installation of efficiency technologies and measures in homes. We support the extension of these policies in any new tax extenders legislation.

Even with these excellent policies and programs in place, the total budgets available for improving energy efficiency in low-income households are woefully insufficient. Even in Vermont, where a 0.5% gross receipts tax on oil supplements federal low-income weatherization funds, a recent study concluded that only 3% of all eligible homes are receiving program assistance each year. At that pace, it will take 35 years for the program to treat all eligible homes.[5]

Equally important, it must be noted that the WAP and LIHEAP funds make no provision for the many small businesses, commercial building owners, and middle income households who also are struggling to cope with rising heating costs.

This obvious gap in efficiency programming (between the electric and natural gas customer "haves" and the petroleum-based heating fuel "have nots") has prompted many to begin an urgent shift toward establishing efficiency programs for petroleum fuels to complement, and ultimately be coordinated or integrated with, existing programs for electricity and natural gas consumers. For example, in 2007 the state of Connecticut enacted legislation to establish a heating oil efficiency program to use up to $10 million. As noted above, Vermont has instituted a gross receipts tax on heating oil that provides $6.7 million each year to supplement $1.3 million in federal WAP funding. Vermont also commissioned a study of the total cost-effective potential to capture energy efficiency from heating oil, kerosene, propane and wood.[6] As a result of this study, efficiency experts have estimated that a new "all fuel" efficiency program in Vermont could deliver, on average, $2.64 in energy savings for every $1 in program funding

[5] Regulatory Assistance Project, "Affordable Heat: A Whole-Buildings Efficiency Service for Vermont Families and Businesses," January, 2008, p. 46.
[6] GDS Associates, *Vermont Energy Efficiency Potential Study for Oil, Propane, Kerosene, and Wood Fuels,* 2007.

and, in the aggregate, saving the state economy $1.5 billion from measures implemented over the next decade.[7]

In Maine, the Governor has established a stakeholder Energy Task Force that recommended the establishment of energy efficiency programs to be made "available to all Maine consumers whether they use home heating oil or propane or kerosene or natural gas."[8] Environment Northeast has been assigned to chair the Energy Efficiency Committee of this Task Force, which is now working with industry, state government officials, community groups, and other environmentalists to identify a plan to deliver efficiency programs to Maine's fuel oil consumers. Maine also decided that when it auctions carbon credits in Regional Greenhouse Gas Initiative beginning in the next year, it will allow up to 15% of the auction proceeds to be used for fossil fuel efficiency projects such as weatherization for oil heat customers.

B. Proposed Funding Levels for Petroleum Heating Fuel Energy Efficiency Programs

1. Market-Based Efficiency Programs

In addition to the critical expansion of funding for LIHEAP and WAP, discussed below, market-based energy efficiency programs must be created for petroleum-based heating fuels -- oil, kerosene and propane – and be adequately funded through a combination of state and federal government policies. While the states mentioned above – Connecticut, Maine, and Vermont – appear headed in this direction, it is clear from any analysis that the funding levels they are contemplating, even when added to current federal funding levels of LIHEAP and WAP, are inadequate for the task.

ENE proposes that funding for petroleum-based heating fuels should ideally reach levels sufficient to capture all cost-effective efficiency resources in the businesses and homes that use these fuels, consistent with the recent trend in electric efficiency programs. Once ramped up to full spending levels, these programs should be maintained at least through the 2020-2025 time period.

In order to identify the appropriate funding levels for new energy efficiency programs for fuel oil customers, ENE has reviewed existing spending levels for natural gas customers and the most recent studies that estimate the total cost-effective potential for natural gas or oil heat efficiency programs. At least two states have commissioned studies to investigate the maximum "cost-effective potential" for heating fuel efficiency programs. A cost effective efficiency measure is that which is determined to be less expensive than purchasing the fuel that would be saved over the lifetime of that measure. These studies typically determine the maximum potential for efficiency measures, based on the existing housing stock and projected construction, and then arrive at a lower number, the cost-effective achievable potential, that takes into account the fact that not all eligible participants will take part the programs. The two studies listed below arrive at similar results.

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[7] Regulatory Assistance Project, *Ibid.*, p.3 and 7.

[8] Task Force, "Report to Governor John E. Baldacci On the Pre-Emergency Energy Task Force, Phase One: Immediate Needs," January, 2008, p. 15.

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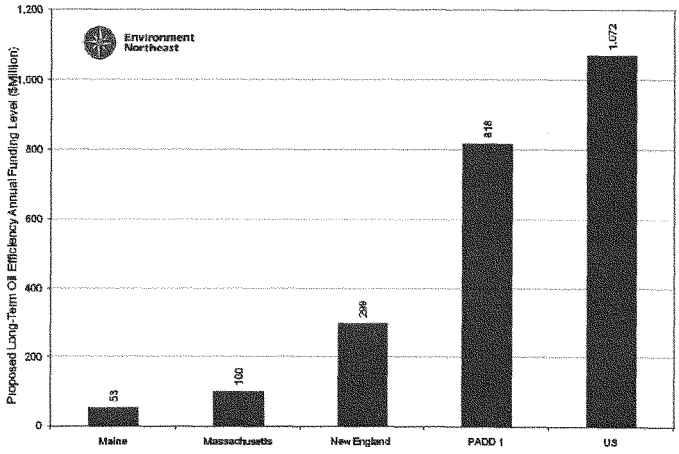
Table 5: Natural Gas and Oil All Cost-Effective Efficiency Studies

	Oregon	Vermont
Fuel Consumption (R&C 2006, MMBtu)	70,955,670	15,341,986
Maximum Economic Potential cutoff ($/MMBTU)	17	11
Average cost of savings ($/MMBTU)	6	5.57
Annual Spending Required	$63,600,000	$17,199,199
Annual Savings (MMBTU)	10,600,000	3,087,619
Savings compared to 2006 consumption	15%	20%

ENE has extrapolated these funding levels to estimate the cost effective achievable potential in other states, the New England and PADD 1 regions, and in the U.S. as a whole, based on how many gallons of fuel oil each place consumed for residential and commercial heating. The results, in Figure 6, show that across the U.S., we can and should be spending about $1 billion annually to adequately fund market-based energy efficiency programs comparable to those now benefiting natural gas and electric customers. In a state like Maine, the figure should be in the range of $53 million per year.

Figure 6: Funding Levels for Market-Based Energy Efficiency Programs for Heating Oil Consumers, Sufficient to Capture All Cost Effective Efficiency Resources



ENE makes no recommendation about the appropriate cost-sharing between federal and state governments to reach these levels of funding, other than to suggest that funding for these programs come from both state and federal sources, and that leveraging federal monies through matching or similar requirements would be a fair and effective tool.

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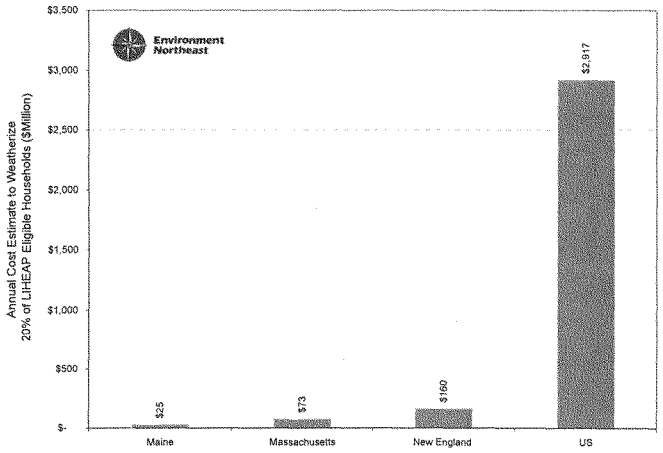
In order to allow a reasonable time for the marketplace to respond, including the hiring, training and deployment of new contractors and personnel who can deliver efficiency services, state and federal policies should phase-in these funding levels over a 3-5 year period.

We have chosen to show Maine, Massachusetts, New England, PADD 1 (eastern states), and the US for illustrative purposes. However, funding should be made available to all states that wish to develop programs and commit money to the effort.

2. Income-eligible Efficiency Programs

ENE further recommends that federal and state governments set a target of providing weatherization services to every LIHEAP aided house over the next five years. The following figure illustrates our estimate of the funding level required to weatherize 20% of LIHEAP aided households in each year. Costs are assumed to average $2,514 per household, based on the reported average of recent WAP costs.[9]

Figure 7: Annual Funding Estimate to Weatherize 20% of all LIHEAP Eligible Households



Over time, energy efficiency programs will reduce the demand for LIHEAP funding. However, in the near-term, ENE also supports fully funding the LIHEAP budget of $5.1 billion as requested by 37

[9] The number of LIHEAP eligible customers is based on data from the National Energy Assistance Directors' Association (http://www.neada.org/communications/press/2008-04-25.pdf) and weatherization program costs are taken from the Whitehouse Office of Management and Budget Office's, Weatherization Assistance Assessment (http://www.whitehouse.gov/omb/expectmore/detail/10000128.2003.html).

senators in the letter of January 24, 2008 to Senate leadership as a means to address the critical needs of low income energy consumers in this time of historically high energy prices.

Summary and Benefits

Market based energy efficiency programs should be funded jointly by the states and the federal government at a level sufficient to capture all cost-effective opportunities. Total state and federal funding levels should ramp-up to achieve an annual efficiency funding level of approximately $1 billion per year for fuel oil efficiency. Once estimates have been made for propane and kerosene use, this number should be increased to ensure that it addresses efficiency opportunities for all petroleum-based fuels. ENE believes these efficiency programs will be at least as cost-effective as natural gas programs today, which should yield benefits three to four times the costs, in other words we should see savings in the $3-4 billion range. In addition, if the programs are coordinated with other activities such as electric efficiency they should be more cost effective. Every increase in fuel prices also increases the cost-effectiveness of programs. Efficiency programs are also the lowest cost solution to reduce greenhouse gas emissions and these programs should significantly assist states and the federal government in achieving emissions reductions.

Programs for low income customers are essential in this time of skyrocketing energy costs. The programs should be two-fold, with significant bill assistance in the near-term through expanded LIHEAP funding and immediate support for a large expansion of the Weatherization Assistance Program to reduce energy consumption and consumer's energy bills. WAP funding should be raised to the point where all eligible LIHEAP customers can receive weatherization support over an approximately five year period. Based on current WAP review, these programs should be cost effective and should significantly reduce the need for long-term LIHEAP funding to address energy bills every year.

Both market-based and low income efficiency programs put energy service companies and community action groups to work, replacing expenditures on imported fossil fuels with good local jobs. In a time of high energy prices and economic worries there is no better government investment than one that grows jobs and puts money back in consumer's pockets, which they can then invest in other parts of the economy.

ENE appreciates the opportunity to offer our recommendations on effective responses to the home heating oil crisis in the northeast. The best response – one that will save consumers the greatest amount on their heating bills, while delivering the greatest economic and employment gains, is a strategic, well crafted and comprehensive efficiency campaign. Federal and state resources will be required, but the benefits far outweigh any other approach.

Thank you.

Chairman KERRY. Well, thank you, Mr. Stoddard. I couldn't agree with you more about those recommendations. I think Senator Snowe and I would join you in articulating a lot of frustration that we haven't been doing this for the last several years.

I have to tell you that it is so exciting what is happening in some quarters right now in venture capital, the private sector, MIT, Carnegie Mellon, CalTech, and places like that. There are just really amazing incubator projects that are taking place, and what we could do to excite them if we got those tax credits that Senator Snowe is referring to, the extenders—it is just inexcusable that we are sitting here without a national policy that allows people to get credit for moving in some of these directions, which in fact moves the marketplace. I know this. We saw it in Massachusetts in the 1970s and 1980s. You know, the fastest-growing sector of our economy, with 75,000 jobs and over 1,200 new companies, was in environmental industries, environmental impact mitigation, and related fields when we had those major incentives, tax credits, in place.

And then, of course, the 1980s came along and the Reagan administration didn't believe in them ideologically and they pulled the guts out from under them. Tenured professors who had left their jobs to go to the Colorado Laboratory on Energy were thrown out on the street, and the things that we had begun to develop in our laboratories were picked up by Europeans, the Japanese, and others and they became the world's leaders in photovoltaics and alternative energy. It is just crazy.

Well, now we are getting back there, slowly. I visited the other day with Dr. Craig Venter, who did the human genome mapping project, and he explained to me that he is now entirely focused on energy. He described to me how he and his group are using synthetic biology to take some of the lessons learned through the genome process about how you can create things, knowing what the form of genes are, et cetera, and applying this knowledge to a process that combines photosynthesis and the microbiolab processes taking carbon dioxide to create a feedstock for a new fuel that is clean.

Now, if we succeed in that, that is a game changer, a total game changer. This is like Harry Truman and Franklin Roosevelt sitting there knowing someone else is developing a bomb and if you don't get it first, you may have a problem, and so we go out and create the Manhattan Project. Well, we have got a bomb ticking underneath us right now and we have no response commensurate with the level of the challenge.

And I will tell you, if we were to unleash our colleges and universities and entrepreneurs and venture capitalists and all these people, revolutionary innovation is one thing we know how to do in America. We are the best innovators and creators there are, and we have just got to help kick it into high gear. That is the essence of it. So I appreciate what you are saying about those efforts.

Ms. Brooks and Ms. Farrell, I wasn't here to hear your testimony, but I have read both of your testimonies. I appreciate enormously what you do with Penquis and the recommendations you made are just right on target. I mean, those couldn't be more apt for what we ought to be doing long-term, short-term, et cetera.

Ms. Farrell, I am fascinated, with those kinds of receivables and this trend, how do you make it work? How do you stay in business?

Ms. FARRELL. I think that is the question we are all asking ourselves, is how we are going to stay in business. Interestingly enough, I went over to the office this weekend when I was re-looking at information, and as you stated on this warm day in June, my receivables are still $512,000. Last week, I had one deposit that amounted just above $4,000 and another day I had a deposit that amounted just over $9,000. The customers——

Chairman KERRY. How far back do those receivables go?

Ms. FARRELL. About—usually at the late spring, early summer is when you see your larger over-90 because they are starting to go into over-90. I think the over-90 was probably about 150, and the rest of it is 60, 30. But, you know, you do begin to——

Chairman KERRY. Have you traditionally gotten to a point where the vast percentage of that is paid off or not?

Ms. FARRELL. That is what you hope, yes.

Chairman KERRY. You hope, but have you gotten there in the past?

Ms. FARRELL. Yes, usually pretty good. You know, sometimes, you have a little bit of bad debt. We do a little equipment financing, so there is a certain amount that is involved in that. But generally speaking, we try to do a pretty good job of getting it cleaned up, because if you don't, it just goes into the next season and it gets worse. And what starts to happen——

Chairman KERRY. How do you carry it? On those receivables, what percentage are just your supply costs?

Ms. FARRELL. I would say 60 percent—well, maybe even more now. It is probably more than that because of the price of oil——

Chairman KERRY. So basically, you are financing——

Ms. FARRELL. Yes.

Chairman KERRY. You have become a financier of other people's home heating oil.

Ms. FARRELL. Yes. Exactly.

Chairman KERRY. You are a LIHEAP adjunct.

Ms. FARRELL. Yes, I am. It appears that way, yes.

Chairman KERRY. Drafted, I might add.

Ms. FARRELL. Mm-hmm.

Chairman KERRY. So as you go forward, have you seen some of the other distributors go out of business?

Ms. FARRELL. There are—Michael could probably answer that better, but yes, there are distributors who have gone out of business, and I know there are a lot of distributors who are very concerned, because if you are not collecting the collectables, how do you go forward.

Chairman KERRY. What would make the most difference to you?

Ms. FARRELL. Well, I think having LIHEAP funding right up front, because I know some years it seems as though we get a portion and it is kind of distributed and then no one knows what is going to happen. And then maybe we get another portion that is distributed and then no one knows what is going to happen. And that becomes cumbersome on the fuel oil dealer accounting-wise with the customer because they don't know what is going to happen.

You know, another thing we are running into which is, of course, getting worse is we have our LIHEAP customer, and LIHEAP does a pretty good job for them. A lot of their fuel oil needs are met and they also provide some repairs and equipment replacement, if necessary. The customer that I am very concerned about is the customer who just falls right out of the range of LIHEAP because there is absolutely nothing for that customer. They may make $20 a week too much and they get absolutely nothing.

I mean, we have a customer right now who is an 80-year-old woman. She has Social Security, a very small pension, and she works 20 or 25 hours a week, believe it or not, at 80 years old at a supermarket chain in New England. And she needs a new boiler. Her boiler is terribly inefficient. It is leaking. It will not make it into the next heating season. We encouraged her to apply for fuel assistance. A lot of customers are reluctant because they figure that that is a welfare program and a lot of your elderly and younger people feel kind of proud. But we tell them that they really need to be doing this. So we helped her. She got all her facts and figures. She makes something like $30 a week too much. If she wasn't making that $30 a week, fuel assistance would replace her boiler and she would be getting assistance with her fuel oil, electricity, and——

Chairman KERRY. Why doesn't she cut back a couple of hours?

Ms. FARRELL. Well, she could, and we recommended that to her, as a matter of fact. But she likes her job and she—they were on the line, and there are many of them like her——

Chairman KERRY. Sure. She is proud——

Ms. FARRELL. She is proud. I think she likes her job.

Chairman KERRY. She is feeling independent. She wants to do it——

Ms. FARRELL. The job is probably good for her. It gets her out of the house.

Chairman KERRY. I understand.

Ms. FARRELL. But there is no contingency for someone like her. We have tried calling every other agency we can think of. There is no help out there.

Chairman KERRY. And what happens when you lock in? I noticed in your testimony you talked about the lock-in price you were at, but the price went up. Do you just lose on that?

Ms. FARRELL. No. How price protection——

Chairman KERRY. You insure it?

Ms. FARRELL. How these plans are constructed is we will go and purchase future contracts over the winter months and we price them. You look on the screen, say to your supplier, get me some contracts at these rates if they look good. Of course, nowadays, you never know what looks good. And typically, that would be how you——

Chairman KERRY. You are passing on based on your purchased contract?

Ms. FARRELL. Yes. We get a purchased contract, put our margin on top of that, and that would be a fixed-price program. Then the CAP pricing came into being when some years the retail price of fuel would go below the fixed rate. How the CAP program works is you essentially buy puts against your future contract so that if

the retail price of fuel oil goes down, the customer's price will go down, also. Originally, when we started those CAP plans, the price of oil was not as high. It was not as volatile. The puts ran about two to three cents per gallon. They have continually escalated with the price of oil. The last two years, it was 17 to 18 cents out of the money puts. That is not even in the money puts.

Last year, I created a hedging program. I hedged a million gallons. It cost me $170,000 up front. To have created the same program this year, it was going to cost me $400,000, and I would have had to have been doing that program in the winter. I just didn't have the money to do that. That is $400,000 up front that you may never recoup if oil stays within a certain parameter. All your options are going to expire, so you have had to outlay this huge amount of money. You may never recoup it and there is tremendous risk in these programs.

We will probably—probably are going to come out with a program this year. Customers like them. I think they have worked well for customers. But we are going to do it more in the moment. We haven't tried to do it—you know, before, I would have had it all set maybe three months ago——

Chairman KERRY. Right, but you are forced to be——

Ms. FARRELL. I am forced to be in the moment because we don't know what is going to happen. And once again, if a customer, like Senator Snowe said, asks me, what do you think I should do, locking in at $4.899 per gallon, I honestly do not know what to tell that person. I don't even want to be locked into those prices.

Chairman KERRY. Fair enough. Senator Snowe.

Senator SNOWE. I want to thank you all for very significant testimony. It certainly is moving to listen to the stories and the challenges that you face respectively and the constituencies that you represent. I think it underscores the dramatic challenge that this country is facing and individuals are facing caught up in the confluence of these events that are creating a very dire situation as it stands today, and the unpredictability of the future, I think enhances the fear and the apprehension. It certainly has been expressed to me personally, about what to expect for the future and how to prepare for it.

Ms. Brooks, I know that you cover a wide ranging area in Maine geographically, a very rural area, and the Low-Income Fuel Assistance Program becomes a pivotal program for so many. What would you recommend for changes, if we could sketch a scenario for change in that program with respect to eligibility of how it is funded? Ms. Farrell, you mentioned about having more money available up front, which is true because you can leverage your buying and purchasing power. Perhaps we should put more money on the emergency side so that there is more discretion in how it is funded rather than the full formula, but that is always a challenge here, as well, for other reasons I won't get into right now, but it is something that we certainly should examine. Ms. Brooks.

Ms. BROOKS. I think it is important to point out that the LIHEAP program was never meant to pay for someone's oil for the entire winter. However, if the average person on fuel assistance makes about $14,000 a year and the benefit only pays for 158 gallons of oil, I don't know how they come up with any more money,

and I know why they haven't paid their oil companies, because they can't. They can't, with the cost of food and the cost of gas and everything else. There is no money left over to pay even in the summer months.

So I guess my first recommendation would be to increase the dollars that the actual person gets, a higher benefit amount, and also expand the guidelines so that those people that are just above that income guideline can receive some assistance, as well.

Senator SNOWE. How many people come to you that are just above the guidelines?

Ms. BROOKS. Last year, it was a little over 2,000 that we denied, and about 60 percent of those were because of over income. And I know there are thousands more that aren't calling us.

Senator SNOWE. So that is between those two counties alone. Serving two counties is more than 2,000. And given the prices where we are today, it puts people really——

Ms. BROOKS. Right.

Senator SNOWE [continuing]. In some difficult financial straits.

Ms. Farrell, what would you recommend in terms—you mentioned about having more money up front, which is certainly a good idea—in terms of the way the money is issued?

Ms. FARRELL. Well, not that it has to come in up front, but I think if customers knew, because it creates a lot of anxiety in the LIHEAP customers not knowing what they are going to be getting, because they don't know how to plan. You know, most of these people are trying to plan and they are trying to manage. So not necessarily that we would get the money so much up front, but I think it is helpful to the customer to know kind of what to expect.

One of my notes of something that I think would be helpful other people have mentioned here today is I would love to see a tax credit or a rebate program for customers who want to upgrade their equipment. We have tremendously efficient oil heating equipment, 90 percent efficient. It is clean. Customers want to upgrade now that the prices are high. We have used programs similar to this with the utilities have offered, and with rebates—a lot of customers, it is enough to kind of give them an incentive to replace their equipment. And going from some of the older equipment to newer equipment, we are seeing customers saving—we have two systems we have taken out in the last two weeks. I am sure that those customers are going to save 40 percent in their consumption of fuel oil.

So getting new equipment out there and weatherization assistance, I think will go a long way to helping a lot of customers reduce the amount of fuel that they are using. So I do think that is important, would be a great thing to have and a great tool for us.

Senator SNOWE. Yes. That was one of the issues with this tax credit, the one that expired the end of last year, was to do just that. But I think it is interesting that home heating oil is shortchanged in the process for enhanced efficiencies——

Ms. FARRELL.Yes.

Senator SNOWE [continuing]. Compared to electricity and natural gas, which is the point you were making, Mr. Stoddard, and I think that is critical. Should we set up a separate program in order to do that across the board, set aside funding? One of the issues that

I raised with Northeast Home Heating Oil Reserve is upon the sale of that oil, that we would use the revenues to set aside for weatherization, for example, as another way of doing it and making those kind of energy efficient investments.

Mr. STODDARD. Part of what we have tried to put in our testimony was some estimate, some reasonable, rational estimate of what it might cost overall to try to get good energy efficiency programs out there on a meaningful scale, and that is where we came up with that figure, not including LIHEAP-using customers, but everyone else. What would be cost effective? What resource that is out there that would be cheaper than just buying another gallon of fuel? And nationally, that would come to about $1 billion in total.

It is important, I think, to mention that the States have been quite active. They have been leaders, and particularly in your two States and in the Northeast generally, in implementing these energy efficiency programs, both in the natural gas and the electric utilities. And the significance of that is that there are planning and administration and implementation and evaluation systems in place to do energy efficiency delivery. They just don't apply to oil customers.

So I think, to go to your question, Senator Snowe, should we establish a program, I think some programs are already established. They just don't go to oil customers, and so the question would be would you take funding and plow it into those existing programs, or do you need to create something new. I would suggest that it should be implemented on a State-by-State basis because every State has a slightly different arrangement in terms of government agencies, how interested the oil dealers are in participating, and so forth, and I think the planning has to happen on a State-by-State level.

I also feel very strongly that the States ought to chip in their fair share. I don't know what that fair share is, but when you hear the Massachusetts oil dealers talking about a half-penny per gallon charge and Vermont currently assesses a half-a-percent gross receipts tax and it was recently recommended that they raise that to 1.5 percent. I currently chair a committee of the Energy Task Force formed by Governor Baldacci in our home State to look at this question of what efficiency opportunities we might have, and there, too, we have raised the question about what funds could we raise locally to contribute to this solution.

So maybe some kind of matching requirement would help entice States to chip in their share. But clearly, what our testimony was designed to show is that the task is bigger than probably what the States and the oil customers can carry by themselves.

Senator SNOWE. That is an intriguing possibility and it is something we should explore in terms of maybe setting up a matching program to expedite this process which could serve as a catalyst, at the minimum. I mean, I think there is no question of the necessity.

Mr. Ferrante, you have been in this business for a long time. What do you see? How does this compare to previous energy crises of 1979 or 1980?

Mr. FERRANTE. Senator, I have been with the Council 17 years. This is unprecedented. There is no question about it. We are at crisis proportion.

If I could echo what we are talking about here, and this is a very important component of providing help, what we are talking about is what is called a system betterment charge, and if I may just take a couple of minutes to explain. It is important to know, without sounding confrontational, if the utilities are able to pass that charge along to every other customer. So it is built in their rate base. So conservation programs for gas and electric are paid for by every gas and electric utility.

We are more than willing to embrace that, as a matter of fact, have taken a leadership role in that position in Massachusetts. An SBC charge of about a half-a-cent a gallon in Massachusetts would collect about $5 million for energy efficiency programs, and that language is now being debated on Beacon Hill. It is unlikely it will pass this session, but maybe next session.

The important component about an SBC for oil is that 30 percent of those funds, as designed by our language, would go to low-income homes. There, we make a real change. We can truly, as Sandra said to you, curtail their energy use, increase their efficiency, hence saving everyone money. So a half-a-cent could go a long way, but it has to be done with some understanding. It is based on volume sold, and I can tell you that over the last few years, we have not, quote, "had a normal winter." So depending on what you assess per gallon, that could fluctuate every year depending on how cold the weather is, obviously translating into how much heating oil volume. That is very key to these programs in the long-term success.

So what we are talking about here in a more national level, a broader scale, we have to look at how we can supplement that funding, let us say in Massachusetts and other Northeast States, with some Congressional activity.

Senator SNOWE. Do you anticipate there will be a supply problem this year?

Mr. FERRANTE. I would say no one in this room is really quite capable and adept at saying there will be a supply problem. So many factors are at play. Weather is key. What I can tell you is the heating oil industry is incredibly resilient. That is the best term I can use. When there is need for product, wholesale companies will go out and get it. People like Sandra will find a way to deliver fuel. We have not had truly a fuel shortage or a real crisis since 2000. But I must also add that we have not had a severe winter. That is going to be the real test of this cascading series of events we are talking about today. If a real winter pattern descends on the Northeast and this country, then we will be in for a real crisis.

Senator SNOWE. What should the reserve hold? What is your estimate?

Mr. FERRANTE. Well, I think there is some reality here. Again, you have to remember earlier in my testimony, in Massachusetts, we have about 12 core storage terminals. These are not your major oil companies, although one is owned by ExxonMobil. So you have to remember around the State, where we have just shy of a million

homes using heating oil, and we have, again, about two billion gallons sold in Massachusetts, so we have 11 core terminals storing that product, distributing to people like Sandra who pull their trucks under the rack, as it is called.

We have a number of other inland terminals which are owned by companies like Sandra. She has storage where other companies can come in and pull from that, from those storage facilities.

So when you ask, should the reserve be bigger, I think the answer is yes, but where would you store it? That is the question. These 11 core terminals are your key storage locations. They try to manage their inventory in this volatile market with what we call just-in-time inventory. A retailer, let us say Global Petroleum in Massachusetts, will look forward and see what the cost of fuel is, and those who operate those terminals are not going to be buying product and putting it into their tanks for storage given the volatility. So they manage the influx of inventory day-to-day during the winter.

And you know what? It has worked marvelously over the years. They are very adept at that. So I want to leave you today with some security knowing that these wholesale suppliers manage the inventory scheme very well, and that works in tandem with your retailers.

I do think, in summary, though, that the reserve should be higher. Remember now, Sandra sells two million gallons a year, her company alone. There are 800 retailers in Massachusetts, many of whom sell much more than that. So the reserve, if you look at Massachusetts only, is truly a drop in the bucket.

Senator SNOWE. What do you anticipate happening to individuals who simply cannot afford to pay this price? I mean, beyond the scope of low-income fuel assistance, although that is inadequate even to help those individuals currently as it stands. Jennifer, what do you see in that respect? What are you anticipating, because that is the concern that I have, all the people out there that cannot simply pay for it.

Ms. BROOKS. That is a great question and it is a question that comes up often. There is talk in the State of Maine to have warming places so people can shut their furnace down real low during the day and go to libraries and stay warm during the day. The reality is once you run out of oil, your pipes freeze, your house is damaged, you have got to move.

We are in a crisis. I don't think that there is any way else to explain it. We are in a crisis and there will be people that will have fires, that people will have—it is a life and death situation, really, for the State of Maine.

Senator SNOWE. Well, I heard from a dealer in Maine who said exactly that, that people were limiting it to one room, heating one room and lowering the temperature significantly in other rooms. I heard about an individual who was suffering from multiple sclerosis who had set up a kerosene heater that was not appropriate inside his bedroom and set an alarm to wake up to make sure that it didn't go on too long without catching fire and would get up and take a shower to keep warm during the night. I mean, this is how dramatic it was last year.

Ms. BROOKS. Right.

Senator SNOWE. And one can only try to conceive of what would happen this year and it is inconceivable.

Thank you, Mr. Chairman.

Chairman KERRY. Thank you, Senator Snowe.

Just very quickly before we wrap up, Ms. Brooks, obviously you have recommended that we increase the LIHEAP funding, and I guess everybody would agree that the single biggest impact, single biggest difference is to have LIHEAP funded adequately to help people be able to pay, is that correct?

Ms. BROOKS. It is just a small——

Chairman KERRY. Excuse me?

Ms. FARRELL. That is just a small percentage of the customers, though. I mean, it is very beneficial, but it really only helps a small amount.

Chairman KERRY. And what do you recommend doing for those people who don't qualify, if anything?

Ms. FARRELL. It is going to be a real concern, because I have people at $700 and $800 a delivery. They just are not paying it. They may be paying $300 one month——

Chairman KERRY. Well, do we have to take a look and rescale—

Ms. FARRELL. I don't know.

Chairman KERRY [continuing]. This thing now? I mean, what we did previously was adjust it according to where sort of the marketbasket was for everybody on all the costs of living. Now, that has changed dramatically, obviously, and in places like Maine particularly, which is going through some tough economic times, and elsewhere, you have really got to help people. You are going to have to find a way to do it. You may have to bring your ceiling up as to who qualifies for some kind of help.

Ms. FARRELL. Well, that would definitely be helpful. As far as the rest of the solution, I am not sure I have the answer to that. I mean, even if——

Chairman KERRY. I think Ms. Brooks' long-term investment concepts are things we have batted around here for a long time, but if you help people lower their costs at home, if you can weatherize, if you can put in an efficient boiler, if you could change the kind of heating system you are relying on, if you can get triple panes, if you can do all those things, you can cut your bills very, very dramatically, by 50 percent in some cases, or more. Those things pay for themselves over a period of time.

We have to do more. Mr. Stoddard, you raised that. We have to do more to educate people and make improvements in efficiency available to them. A lot of people don't realize the benefits of efficiency. They think, oh my gosh, I can't afford that, but they don't realize that in a year, it will pay for itself with the savings they will get, and then in the following years, they will actually save money. So we have got to proactively get out to people, which is something we began a number of years ago. The effort seems to have died away.

What about what Mr. Johnson was talking about? You all have heard Mr. Johnson's statements, and I wonder if you have any thoughts about the reserve itself. Is there a way that we should rethink, the function of the reserve to address this more effectively? Anybody? Mr. Ferrante.

Mr. FERRANTE. I think, as Mr. Johnson said in your question about the trigger mechanisms, they should be reexamined. I think that there is clearly some definitions here that lawmakers should reexamine.

Chairman KERRY. And if we reexamine them, what about the market intervention issue that he raised? Is that appropriate? Is it doable——

Mr. FERRANTE. It is appropriate. I must agree with his——

Chairman KERRY. Is it doable with——

Mr. FERRANTE. I must agree with his assessment that you have to remember this product would be coming into the market and would be the wholesale suppliers I have mentioned, the 11 core terminals. Those key companies have to deal with that and reconcile with that product coming into the market. I think they could, but the bigger it gets, Senator, the more significant an economic or business challenge that would be for a supplier like Global Petroleum or others to deal with what they bring into the market.

There is no question that two million barrels is not a heck of a lot of heating oil, but nonetheless, it has a lot to do with storage. Where can you put this product, that product sitting there waiting to be utilized? There is very little storage in the Northeast. We have lost storage for heating oil.

Chairman KERRY. So what I am hearing is basically that chasing the reserve is going to be really fighting this at the margins, right?

Mr. FERRANTE. I believe so. I mean, we have never tested the reserve, too, and I think that is the other thing that we have to remember. It has never really been put to a full test and we have never triggered it to say, well, this works. That two million barrels was distributed efficiently and adequately to people and it was also delivered in time.

So with that said, I don't think anyone here can really fully say what that number should be for total storage, now or in the future. It doesn't sound like a lot to me. It never has. And for those who I deal with on the wholesale side, they would agree.

Chairman KERRY. One last question. Mr. Stoddard, you seem to be advocating State management of these efficiency programs rather than some sort of Federal standard or level. Am I interpreting that correctly?

Mr. STODDARD. That would be my recommendation at this time, based on the successful model that we have seen from the electricity and natural gas utilities.

Chairman KERRY. But what do you think the role is for the Federal Government?

Mr. STODDARD. Funding.

Chairman KERRY. What about standards? What about goals? What about incentives?

Mr. STODDARD. Again, the kinds of standards that come to my mind are minimum efficiency standards for appliances and equipment, and in the last couple of years in the EPCA 2005, you made tremendous progress doing that for many appliances, a little bit slow still on some of the heating appliances, but those are much better.

The other obvious minimum standard to raise is building energy codes, and here again, that is typically the jurisdiction of States,

not the Feds. So we are starting to see baby steps. Our home State of Maine is very proud to have passed a very aggressive minimum building energy code last year, but it is slow progress and I am not quite sure what the Federal Government could do to enhance that.

One idea does come to mind, though. We have been working with some of your staffs in the recent discussions about the Lieberman-Warner legislation and there you have many dynamic discussions going on about how you distribute allowances to different States, and one suggestion would be to incentivize States to bump up their various standards on something like building codes in order to gain a slightly higher allocation of allowances.

Chairman KERRY. Well, building codes are a big deal, and I will close out by calling to your attention a Commercial Building Initiative within the Department of Energy. I forget which division of the Department of Energy, but we are trying to get $20 million to the initiative and make sure it is funded. This is an effort to encourage leads and other standards to be applied to buildings.

People don't realize it. Buildings are the source of 40 percent of energy use in America and 40 percent of our greenhouse gas emissions come from buildings, so there is no solution to greenhouse gas emissions and no solution to an energy problem through energy policy that doesn't embrace a building standard and code for the United States. This effort, the Commercial Building Initiative, is setting out to have a zero net energy use building, which is doable. You can, through efficiencies and materials and climate control and other things, build a building that reduces net energy use by 70 to 80 percent. And then with solar and self-contained energy grids, et cetera, you can get down to a net energy use of zero, which is what we have to do in the country. People don't realize it.

Planning boards, city councils, zoning departments shouldn't allow any building to be built today that doesn't embrace new standards for building. And it is exciting to see what people are doing around the country. I won't go into details, but there are some really exciting things that are happening.

In conclusions we are very grateful to you. Senator Snowe and I will talk seriously about different kinds of initiatives. There are a number of different options here, and we have obviously got to get this on the front burner. I think today's hearing has been enormously helpful. This is what a hearing is supposed to do; inform and educate and shed light on issues when it is important, and I think you have all done that very effectively today, so we are very grateful to you. We need to enlist the Energy Department, Mr. Johnson, and get the administration really thinking about this ahead of time, because those supply numbers that Senator Snowe quoted are ominous and I think we have all got to be aware of what may or may not happen.

So at any rate, we will go about our business and do what we can, and we are going to try to alleviate your pain, Ms. Farrell——

Ms. FARRELL Thank you.

Chairman KERRY [continuing]. And Ms. Brooks, to help you be able to administer that terrific program up there, and we really appreciate it. So thank you all very, very much.

We stand adjourned. Thank you.

[Whereupon, at 12:09 p.m., the committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

SENATOR JOSEPH I. LIEBERMAN, SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, JUNE 25TH COMMITTEE HEARING ON "EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES"

STATEMENT FOR THE RECORD

I welcome today's Small Business Committee Hearing examining solutions to cope with the rise in home heating oil prices, and I appreciate the leadership of Senator Snowe and Chairman Kerry in tackling this problem.

Connecticut, along with much of the Northeast, is vulnerable to fuel oil shortages and price spikes during winter months. Approximately 50% of people in our state use oil to heat their homes. According to the Energy Information Administration, residential heating oil prices are projected to average approximately $4.50 per gallon this heating season, a 35–40% increase over last year. Heating a home for the entire winter in Connecticut could cost more than $5,000 in such an environment, and we rightfully have concerns about the impact on low-income and middle class families. Coupled with the pain currently being felt at the gas pump and in the food aisle, these projected price increases could have serious consequences for our region.

To ease prices for small businesses, working families, and senior citizens (especially those living on a fixed income), we must first look to use the tools that stand ready at our disposal.

We must be prepared to release oil from the Northeast Home Heating Oil Reserve in the event that prices remain above $4.00 per gallon. To that end, I support S. 3170, which was introduced last week by Senator Snowe and co-sponsored by Senators Dodd and Kerry. In the past, these emergency reserves have been effective in helping avoid a catastrophe, and I welcome efforts to ensure that those resources will be available for use this year.

I also strongly urge passage of the Keeping Americans Warm Act, which would appropriate an additional $1.0 billion to help the Low Income Home Energy Assistance Program (LIHEAP) keep pace with rapidly rising prices. This critical program assists vulnerable, low income families, families who will be paying an even higher proportion of household income for home energy this winter.

Over the long term, however, we can only tackle this problem by changing the way we use energy, and especially oil. The only permanent solution to high fuel prices is to free ourselves from the whim of volatile and even hostile oil-producing nations and the greed of commodities speculators. In short, we must end our oil addiction.

To that end, we must continue to seek new legislation on a number of fronts, including increased oversight and smarter regulation of energy futures markets, improved efficiency and fuel economy standards for our homes and vehicles, caps on carbon emissions, and greater support for renewable energy technologies. Through this comprehensive approach, we can end our dependence on fossil fuels and become the global energy leader the world so badly needs.

DEPARTMENT OF ENERGY,
Washington, DC, October 14, 2008.

Hon. JOHN KERRY,
Chairman, Committee on Small Business & Entrepreneurship,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On June 25, 2008, David F. Johnson, Deputy Assistant Secretary for Petroleum Reserves, Office of Fossil Energy, testified regarding, "Examining Solutions to Cope with the Rise in Home Heating Oil Prices."

Enclosed are the answers to nine questions that were submitted by you and Senator Snowe to complete the hearing record.

If we can be of further assistance, please have your staff contact our Congressional Hearing Coordinator, Lillian Owen, at (202) 586–2031.

Sincerely,

LISA E. EPIFANI,
Assistant Secretary,
Congressional and Intergovernmental Affairs.

Enclosures.

QUESTIONS FROM SENATOR KERRY

Question 1. I understand there is no refining capacity in the Northeast and the majority of home heating oil is delivered via ships. This delivery is vulnerable to weather conditions and ripe for interruption. Given this concern and the reliance on home heating oil for so many individuals in the Northeast, are there steps we should be taking to encourage other delivery mechanisms? Given the unpredictable weather we are increasingly seeing, is a ten-day supply in our strategic reserve adequate?

Answer l. The commercial heating oil industry has shown to be very resourceful in managing a logistical system that, although sometimes strained, delivers heating oil from many sources to the end user efficiently, on time, and on specification. We would rely on the commercial industry to determine if additional delivery methods were required and to establish those mechanisms. The ten days of coverage provided by the two million barrel Reserve is intended as a temporary buffer which is adequate to tide industry over in cases in which an imminent supply interruption is considered to be likely.

Question 2. Would it reduce the potential for price spikes to have a larger reserve, bought in the summer months, to help ensure against price spikes that could potentially leave consumers and small businesses in great peril during an especially cold winter?

Answer 2. Price spikes are an indicator to industry that additional supplies are needed. The two million barrel Reserve is sized to cover regional supply interruptions while not directly influencing the market price of heating oil or the industry role of providing those necessary supplies. Although a larger reserve would allow for greater coverage in the Northeast and more emergency response flexibility, tank storage availability is at a premium in today's market and a larger reserve would most likely displace much needed commercial stocks. Further, although filling the Reserve during the summer months is an option, the summer driving season and the transportation sector needs put pressure on refiners so less heating oil is produced. Whatever heating oil is produced goes directly into commercial inventories or is exported to South America to assist with their winter season. Heating oil wholesalers also begin building their stocks during this time for the upcoming winter. Increasing the Reserve during the summer would cause the Department of Energy to compete with commercial inventories and may put upward pressure on prices of heating oil and other refined product prices.

Question 3. What DOE programs are available to help individuals deal with rising prices? What programs are available to promote energy efficiency?

Answer 3. The Department of Energy operates a comprehensive outreach program that includes both a hotline and website that provides energy saving tips for consumers. The DOE's EnergySavers.gov website provides the public with tips for reducing energy consumption for all consumers from residential and vehicle owners to fleet and industry managers.

ENERGY STAR, a program operated jointly by both EPA and DOE, offers consumers another way to save money and energy. The ENERGY STAR label identifies energy efficient products in over 50 categories: including compact fluorescent bulbs, clothes washers and dishwashers, windows, and many consumer electronics, such as televisions and computers. ENERGY STAR products are available through all major retailers.

Another program that can help individuals deal with rising prices is the Home Performance with ENERGY STAR program (*www.energystar.gov/homeperformance*), which is also jointly administered by DOE and EPA. Consumers can find contractors participating in locally-sponsored programs in 23 states who use whole-house diagnostic equipment to assess their home's energy performance. The contractors provide a list of recommended improvements that will save money on their utility bills, as well as improve the comfort and indoor air quality of their home. The contractors can also install the selected improvements or work with other qualified home improvement contractors. Typical improvements include air sealing and adding insulation; upgrading the heating, ventilation and air conditioning systems as well as water heater replacement; and high performance windows, lighting, and other appli-

ances. Overall savings are typically 20 to 30 percent of the homeowners' energy bills, varying by climate and size of investment. DOE plans to expand the program into areas not currently served by local sponsors to increase the services available to consumers.

DOE also administers the Weatherization Assistance Program (WAP). WAP provides technical assistance and grants to State and local weatherization agencies throughout the United States. The program reduces energy costs for low-income households by increasing the energy efficiency of their homes while promoting their health and safety. The program prioritizes services to the elderly, people with disabilities, and families with children. These low-income households are often on fixed incomes or rely on income assistance programs and are most vulnerable to volatile changes in energy markets. High energy users or households with a high energy burden may also receive priority. Households interested in participating in the program can check with their telephone directory, utility company, or public assistance office, for the contact information of their State or local weatherization agency to see if they qualify.

In addition, the Low-Income Home Energy Assistance Program (LIHEAP) administered by the Department of Health and Human Services is available to assist income eligible clients with payment of their fuel bills. Potential clients may contact their State LIHEAP offices for additional information.

QUESTIONS FROM SENATOR SNOWE

Question 1. Do you believe that the triggering mechanism of release from the Northeast Home Heating Oil Reserve should be altered? Why or why not? If so, what trigger do you believe should be provided to the Administration?

Answer 1. The current market dislocation indicator specified in the Energy Policy and Conservation Act has been monitored by the Department as an alert to further investigate possible supply interruptions. Since the Reserve was established in 2000, this calculation has only reached the defined values three times, all of which were in circumstances that were not characterized by a severe energy supply interruption. In December 2000, the disparity was caused by a significant decrease in crude oil prices due to increased OPEC production. In March 2003, the high heating oil prices were at the end of the season. In October 2005, the high heating oil prices resulted from Katrina refinery outages. None of these situations were appropriate for a heating oil stock release.

Question 2. What exact circumstances, in your opinion, would qualify as a "triggering event" for the Northeast Home Heating Oil Reserve Fund under existing law? How much more do families and business have to spend this winter in home heating oil before a "triggering event" occurs?

Answer 2. The Energy Policy and Conservation Act (P.L. 94–163) authorizes use of the Northeast Home Heating Oil Reserve (NEHHOR) if the President finds that a dislocation in the heating oil market has resulted from a severe energy supply interruption or that a circumstance exists that constitutes a regional supply shortage of significant scope and duration and use of the NEHHOR would assist directly and significantly in reducing the adverse impact of the shortage.

The NEHHOR is to help industry compensate for unexpected supply emergencies. It was not created to influence the market price of heating oil. It is sized to create a buffer for commercial companies but not so large as to dissuade suppliers from responding to increasing prices as a sign that more supply is needed. However, the Heating Oil Reserve is ready to be drawn down within days in the case of an actual or imminent supply interruption.

Question 3. In Maine, home heating oil prices have jumped $1.89, or 70 percent, since the start of the 2007–2008 heating season. We're in a crisis already here and we're in the middle of summer, when demand for heating oil is negligible. What is the Administration specifically doing to ease this crisis and prepare people for the winter months ahead?

Answer 3. The Administration is working to increase the supply of oil to address the energy market fundamentals that have driven oil prices. Significant change in the energy price environment will require persistent attention to development of alternative fuels, improved energy efficiency, and expansion of domestic drilling access.

One tool to address heating oil affordability in the short term is the Low Income Home Energy Assistance Program (LIHEAP) administered by the Department of Health and Human Services. LIHEAP assists low income households in meeting their immediate home energy needs. For FY 2008, Congress appropriated $1.98 billion in regular block grant funds and $590 million in emergency contingency funds, which the President may release to assist with the home energy needs arising from

an emergency situation. In addition to the HHS LIHEAP program, the Department of Energy works to help improve public awareness and promote information sharing. The DOE Energy Information Agency typically provides winter price and supply forecasts. The Department of Energy also participates in weekly conference calls with other Federal and State energy officials, the New England Governors Council and industry associations to monitor State energy issues and fuel concerns so that appropriate actions can be taken if warranted.

Question 4. Is the Department of Energy already working with the Small Business Administration and the U.S. Department of Health and Human Services and, the rest of the federal government, to develop a rapid response plan if these prices do not decline? What preemptive Administrative actions are already under way to implement a response plan?

Answer 4. The Administration does not anticipate any precipitate or pre-emptive actions to address heating costs. The LIHEAP and private assistance programs are in place from prior years. The Northeast Home Heating Oil Reserve is available at 2 million barrels, as a buffer inventory to supply heating oil in the event normal deliveries are interrupted, but is not intended to influence market prices.

In past years some dealers have offered their customers season-long contracts at fixed prices, but we have not seen widespread offers of such contracts this year. Reluctance to offer the fixed contracts for this season may reflect industry expectations that heating oil prices may moderate later in the summer with stock build, and that commitments made at today's prices would be rued at a later date.

Question 5. According to data posted at the DOE's Energy Information Administration's website, we are now confronting historic lows as it relates to our nation's heating oil supplies with a drop from 86 million barrels in June of 1993 to 25 million barrels in June of this year. How do you explain this decrease in the supply of home heating oil? Is this cause for alarm? Why or why not?

Answer 5. High-sulfur distillate fuel (containing 500 parts per million (ppm) or more of sulfur) is typically referred to as heating oil because home heating has historically constituted the largest single use of this product. However, until recently, high-sulfur distillate fuel has been used for more than just heating. Some of the other uses included non-road diesel, locomotive, and marine use.

High-sulfur distillate fuel inventories have been decreasing since the 1990s as demand for highway diesel has been switched to lower sulfur distillate fuel by increasingly stringent environmental regulations. As of June 2007, in accordance with rules from the Environmental Protection Agency (EPA) stemming from the Clean Air Act Amendments of 1990, fuel suppliers are no longer distributing distillate fuel containing more than 500 ppm of sulfur for non-road diesel, locomotive, and marine use. These sectors constituted more than half of the overall demand for high-sulfur distillate fuel, and are now being served by low-sulfur distillate fuel containing less than 500 ppm of sulfur.

The significant reduction in demand for high-sulfur distillate fuel due to this rulemaking also resulted in a reduction in inventory needs. While demand for high-sulfur fuel was reduced by at least 50 percent, weekly high-sulfur inventories during January through May 2008 averaged about one-third lower than high-sulfur inventories over the same period in 2007, prior to when the regulation took effect.

As a result of this category switching, analysts have found that comparing current high-sulfur distillate fuel inventories to historical data is misleading at present. It will take several years to create a baseline for the smaller high-sulfur market. At present, those seeking an undistorted view should focus on total distillate inventories when analyzing heating oil or diesel fuel. Since low sulfur and ultra-low sulfur distillate fuel can be used in the heating oil market, total distillate inventory has merit as a measure of available distillate for heating oil use.

U.S. total distillate inventories are currently in the middle of the 5-year average range for this time of year, which implies stock levels should be sufficient to meet distillate demand levels this winter under normal weather conditions. Total distillate inventories on the East Coast, where most of the Nation's residential heating oil is used, are at the low end of the typical range for this time of year, but high inventories on the Gulf Coast, which is one of the major supply regions for the East Coast, indicate supplies are available.

Question 6. Does the Department of Energy believe oil is currently priced according to market principles, or is there something to the view that speculators have helped engineer price increases?

Answer 6. We believe that the price of oil is determined primarily by the fundamentals of supply and demand. Supply has remained relatively constant while world demand has risen. We have recently witnessed record prices for crude oil, gasoline, and other energy products however, this problem was not created overnight. Over the past three years global oil supplies have remained relatively flat, at ap-

proximately 85 million barrels per day. Demand, on the other hand, has increased at the rate of almost 2% per year—primarily from growing economies in Asia. This imbalance in supply versus demand is the significant factor that has resulted in high prices.

SENATOR KERRY'S AND SENATOR SNOWE'S QUESTIONS FOR PENQUIS

QUESTIONS FROM SENATOR KERRY

(1) What steps can homeowners take on their own to increase the energy efficiency of their homes for the coming winter, and how much can someone expect to save this winter from basic efficiency improvements?

Answer: It may be helpful to think of this challenge in two ways: energy efficiency and energy conservation.

Energy efficiency focuses on maximizing the economic benefits of wise energy use. This could include, for example, replacing an inefficient refrigerator, or improving the efficiency of a furnace through a tune up or a replacement. With this approach, however, there is typically an upfront investment and then a return over time in terms of annual fuel or electricity savings. The return to the homeowner for such improvements depends upon their current situation and the activity they undertake. Space heating accounts for 58% of home energy consumption, water heating 19%, refrigerator 12%, and appliances and lights 11%. Perhaps the single biggest thing homeowners can do is make sure their attic is air sealed and well insulated. This keeps heat from escaping out the top of the house as it rises. Replacing and tuning heating systems, repair or replacing high energy using equipment, and adopting energy efficient practices are also good ways to save. It is estimated by John Kriger that the typical residential building uses 1½ to 2 times as much energy as necessary to achieve comfort and convenience.

Energy conservation focuses more upon reducing our energy use, and asking consumers to change their behavior. Take shorter showers, turn the heat to 68 degrees, set temperature back at night, was a full load of laundry and dishes at one time, etc.

The biggest savings from weatherization generally come from the buildings with the highest energy use. Based on this, we might assume that wealthier homeowners with larger houses might experience the greatest savings and the quickest paybacks from their energy investments. This is a significant portion of the population because it is these higher energy-using households that have historically not felt the pricing pressure to make improvements, nor have they been supported through government programs such as LIHEAP. According to nationwide studies by the Department of Energy's Weatherization Assistance Program, total energy savings per household range from 10 to 30%. Based on the above logic, larger more energy intensive households might be expected to save an even higher percentage of their energy consumption.

Finally, experience shows that the simple things (i.e., weather stripping windows and doors, tightening doors, putting locks on sashes, tuning up the furnace) should be encouraged and that this will initiate savings. The larger savings are more likely to occur through a payback that may take 1 to 10 years or more. Of course, homeowners should focus their investments in energy savings where the paybacks are quickest.

(2) How has the Good Neighbor/Keep ME Warm Fund been affected by rising oil prices? Has it reduced the program's effectiveness? Can this program serve as a model to other States where citizens can step in and help others in their community?

Answer: We are just beginning this year's heating season with record high oil prices. With more people worried about how to handle the cost of heating their own home, we estimate that donations to support the Good Neighbor/Keep ME Warm Fund will be less than we have seen in previous years. Businesses that have typically been supporters of the funds are also struggling with a slow economy and we will most likely see a decrease in support from them. Obviously, the program is less effective with the high cost of oil and the decrease in donations. It costs more to provide a family with 100 gallons of oil and we have less dollars to support the purchase. Penquis has been administering the Good Neighbor Fund and Keep ME Warm Fund for more than 5 years. We have great experience in providing support to certain populations (i.e., over income families, laid off workers) that works. We believe that this is an excellent model to provide assistance and could be a model program for other communities/states.

QUESTIONS FROM SENATOR SNOWE

(1) As you know, I have introduced legislation, co-sponsored by Senators Dodd, Kerry, and Lieberman that would mandate that heating oil from the Northeast Home Heating Oil Reserve should be released if home heating oil tops $4 per gallon this winter. First, do you agree the release of this reserve during a time of such unconscionable prices could benefit Mainers who are at a breaking point? Please explain. The Reserve currently stands at just under 2 million barrels, which is roughly the demand for New England oil for ten days in the heart of winter. Do you think the amount of oil held in Reserve should be increased? If so, to what amount?

Answer: This question is beyond the scope of my expertise. However, I would say that we feel that many Mainers, particularly the low income and working poor, are facing desperate critical times and that there is not one solution that will fix the issue of maintaining a safe, warm winter for our entire population. Releasing the reserve and/or increasing the reserve should be one of many things done to ensure the safety of our citizens.

(2) What percentage of homes in your region could receive additional weatherization or improved efficiency in their homes? Do you believe that there should be an increase in weatherization assistance? How could loan programs be improved in order to expand the number of families who take advantage of existing programs in the State of Maine?

Answer: It is estimated that roughly 28% of owner occupied homes in our region need are poorly insulated, many more could use upgrades in order to be more energy efficient. Weatherization should be made available to at the minimum all those receiving LiHEAP. However, many home owners are just above the threshold to qualify for LiHEAP and the weatherization and cannot afford both the high cost of fuel this winter and a small loan payment for energy efficiency improvements, even with a great payback. Loan programs need to be creative in their requirements for terms of repayment. For instance, loan payments are made only 6 months out of the year (April to October). These terms are similar to many loans made to seasonal businesses.

(3) What specific steps could we in Congress take to assist consumers who do not currently qualify for LiHEAP programs.

Answer: First and foremost, the eligibility for LiHEAP needs to be expanded and put on a sliding scale so that more people can benefit from the program. While providing tax incentives to those that are doing energy efficient improvements is crucial, there is a portion of citizens that can neither qualify for assistance nor afford to do any energy improvements. Those are the citizens we worry about most. Encouraging basic energy conservation methods such as taking shorter showers, turning the heat to 68 degrees, setting the temperature back at night, and simple things such as weather stripping windows and doors, tightening doors, putting locks on sashes, tuning up the furnace) should be encouraged and will initiate savings. Ensuring that loan programs are available and work for low to moderate income citizens that have very little resources to pay would be beneficial as well.

SENATOR KERRY'S QUESTIONS FOR MICHAEL FERRANTE, PRESIDENT, MASSACHUSETTS OILHEAT COUNCIL, FROM THE U.S. SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP HEARING, "EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES," JUNE 25, 2008

LOWER SULFUR DIESEL

In your written testimony, you warn against moving too quickly to transition diesel fuel to low- and ultra-low sulfur diesel fuel and heating oil because it has put a strain on availability and fuel prices. As you note, it's important to balance the environmental benefit with small business concerns.

- What steps can be taken to make sure small distributors are ready for this transition?
- What can we do to help ease them through this important transition?

BIOFUEL MANDATE

As you note in your testimony, proposed legislation in Massachusetts would increase the required amount of biofuel in heating oil to 5 percent by 2013. Are small distributors prepared for this change if it becomes law?

- Do Massachusetts distributors already use a percentage of biofuel in their heating oil?

• How do you think this mandate will affect the industry? Does it have the potential to spur local innovation and put Massachusetts at the forefront of the biofuels industry?

THE SMALL BUSINESS ENERGY EMERGENCY RELIEF ACT

I have introduced legislation that would provide low interest loans to small businesses to help them stay afloat through this challenging time. Since 2001, in three different Congresses, this legislation has passed our Committee three times, it has passed the full Senate three times, and it has enjoyed broad, bi-partisan support, with as many as 34 cosponsors at one time.

• Given the tight credit markets and the extremely high energy prices, is there still a need for this type of legislation. Can you think of instances where a low interest loan, capped at 4 percent with a possible term of 30-years, would help an otherwise viable small business survive the energy price crisis?

CONVERTING TO NATURAL GAS

You testified that many consumers are converting to other forms of heating fuel in the face of aggressive marketing from power companies.

• What are the claims that these companies are making and are they valid?
• What is the cost and benefit for an individual to switch to another fuel source?

SMALL BUSINESS DESIGNATION

The Small Business Administration is considering changing the threshold for a heating oil distributor to be considered a small business from the $11.5 million in gross receipts as it is currently defined. I know the rising price of heating oil has caused many businesses to lose their status as a small business while they are delivering even less oil than before.

• What are the implications of this change in definition and will a new definition benefit small businesses?

MASSACHUSETTS OIL HEAT COUNCIL,
Wellesley Hills, MA, July 22, 2008.

Senator JOHN KERRY, *Chairman,*
Senator OLYMPIA SNOW, *Ranking Member,*
U.S. Senate,
Committee on Small Business & Entrepreneurship,
Washington, DC.

DEAR SENATOR KERRY AND SENATOR SNOWE: Thank you for the opportunity to testify before the Committee on Small Business & Entrepreneurship on June 25, 2008. It was truly an honor to participate in the proceedings and offer our insight into "Examining Solutions to Cope with the Rise in Home Heating Oil Prices."

Per your request, here are our responses to your follow up questions.

RESPONSES TO SENATOR KERRY FROM MICHAEL FERRANTE

(1) LOW SULFUR DIESEL

The Oilheat industry clearly sees the value in moving its customers to home heating oil with lower sulfur content, most likely in the 500 parts per million (ppm) range for sulfur. The fuel is cleaner-burning and based on research done by our association, the 500 ppm fuel mixes extremely well with soy-based biofuel up to 20% thus offering increased environmental benefits and less equipment maintenance. Whether the entire heating oil industry nationwide can make a smooth and timely transition to this fuel as a total replacement for higher sulfur content heating oil is still open for debate. Why? During extremely cold weather, the wholesaler suppliers of heating oil in the northeast and Canada rely on importing higher sulfur heating oil supplies from a number of countries including Russia. And many refineries around the globe have yet to install the necessary equipment to produce lower sulfur heating oil. Over the next 3–4 years more low sulfur will be produced worldwide and this will help ensure a steady supply during all weather and market conditions. The industry believes that small distributors will simply embrace the lower sulfur fuel when they see that their local wholesale suppliers are offering steady supply at market-driven prices.

However, since there is clearly a need for additional storage tanks for home heating fuels across the country—even at the retail delivery level the Committee can continue to support and push for Small Business Administration (SBA) financial assistance for facility improvements and storage tank expansion, and do whatever pos-

sible to lessen the cost of compliance with federal rules such as the Spill Prevention Control and Countermeasure (SPCC) plan requirements.

(2) BIOFUEL MANDATE

Our association has given its full support to the biofuel mandate legislation and we have worked closely with Governor Patrick's Advanced Biofuels Task Force to ascertain all of the potential roadblocks to implementation of a mandate for home heating oil. The retail industry is very resilient and adaptable to change, and our Board of Directors believes that since biofuels are truly vital for reducing emissions and reducing our dependency on fossil fuels, fuel oil retailers of all sizes will embrace the fuel. They keys to success are distribution improvements at the wholesale heating oil distributor level, and the building of new biofuel manufacturing facilities in Massachusetts and the nation in order to provide adequate supply. Currently, there are at least 20 retail heating oil companies in Massachusetts offering biofuel blends of 2, 5 and 10%. They all report great success and customer acceptance of the new fuel. A biofuel mandate in Massachusetts will certainly spark local innovation and biofuel manufacturing plant construction, and put Massachusetts in the forefront for biofuels for home heating and transportation.

(3) THE SMALL BUSINESS ENERGY EMERGENCY RELIEF ACT

First, it is important to note that our association met recently with local officials from the Small Business Administration (SBA). Following the briefing on the valuable programs offered currently by the SBA, our association is undertaking a direct mail and electronic mail outreach to about 800 retail heating oil dealers statewide to make sure they are aware of the financing opportunities available with SBA's help.

With respect to Senate Bill 163, MOC and the New England Fuel Institute have reviewed the language and once again, any vehicle that will help our industry manage the challenging business climate is most welcome. It appears the bill does not explicitly provide loan guarantees ($1.5 million) for heating fuel dealers but does provide them for any small business experiencing hardship as a result of heating fuel price increases. This may need to be clarified.The bill also allows small businesses to use the loan guarantees to convert heating systems to renewable and alternative fuels, and our hope would be that heating fuel dealers would not be competing for the same loans as a small businesses looking upgrade a heating system.

(4) CONVERTING TO NATURAL GAS

The most aggressive oil-to-gas heat marketing campaign comes from National Grid, a British-based firm that recently purchased KeySpan Energy in Boston, Lowell, Cape Cod and Essex. Copies of some of their recent marketing materials along with our complaints to Massachusetts Attorney General Martha Coakley are attached to this document.

Up until the winter of 2006–2007, Oilheat maintained an often times significant price advantage over natural gas. During the winter of 2007–2008, natural gas prices were significantly lower than heating oil on a gallon-to-gallon comparison basis because of the price of natural gas on world markets. Converting to natural gas is not inexpensive even with a free or subsidized heating system from the gas utilities. First, these free or subsidized systems are not high-performance, high efficiency units. Installation costs for an oil-to-gas heat system can run between $7500 and $10,000 and there is no guarantee that natural gas prices will remain stable thus allowing the conversion customers a reasonable pay back period. Natural gas prices have risen significantly over the past several weeks and gas utilities in New England are already warning of higher winter gas heating rates.

(5) SMALL BUSINESS DESIGNATION

The industry welcomes the threshold change for retailers to be considered small business under SBA rules and MOC along with the New England Fuel Institute has lobbied for the change. This will certainly aid some companies in their quest for financing, but since we do not represent many of very small retailers; it is difficult for me to assess the total impact of this rule change at this time.

SENATOR OLYMPIA J. SNOWE FOLLOW-UP QUESTIONS FOR THE RECORD DIRECTED TO SANDRA FARRELL, NORTHBORO OIL CO., "EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES." JUNE 25, 2008

(a) Oil distributors are dependent on the price of diesel fuel directly, for the diesel fuel trucks that make heating oil deliveries and also indirectly, because the trucks

that supply your tanks run on diesel. How have higher diesel prices impacted your bottom line? Are you making any changes to routes and fueling schedules to maximize fuel utility? If diesel costs keep rising and the economic climate continues to deteriorate, will start to look at reducing employees in order to reduce costs?

(2) Senator Kerry and I have introduced legislation to give businesses hurt by high heating oil costs access to credit through Small Business Administration disaster loan programs. Should this initiative pass through Congress, would small businesses, such as yours, utilize and benefit from these loans to ease the burden of cash flow caused by the energy crisis we are currently facing? Why or why not?

(3) What additional steps could we in Congress take to help small business oil and gas distributors remain viable and competitive during this crisis?

RESPONSES TO SENATOR SNOWE FROM SANDRA FARRELL

(1) Certainly the rising cost of diesel fuel must be passed on to customers. As you may know, like heating oil, diesel fuel is a distillate fuel, and the price for both fuels has risen in tandem. If prices for diesel fuel continue to rise, we will have to pass along those additional costs. At our company, we always examine the most efficient routing for customer deliveries in order to maximize our fuel use. At this point, we have no intention of reducing employees to cut costs, but given the financial challenges within the industry at this time, I expect that dealers will lay off employees, or sadly, go out of business completely.

(2) First, as Michael has reported, it is important to note that our association met recently with local officials from the Small Business Administration (SBA). Following the briefing on the valuable programs offered currently by the SBA, our association is undertaking a direct mail and electronic mail outreach to about 800 retail heating oil dealers statewide to make sure they are aware of the financing opportunities available with SBA's help. My concern about emergency loans is the speed at which they can be secured. My company can deliver as much as 40,000 of heating oil per day. My suppliers require payment for that fuel within a 10 day period. With customer payments stretched out to 30, 60 and 90 days, it is clear that immediate cash flow to pay suppliers is a key factor. If I were in need of an emergency loan, I would need the funds as quickly as possible.

(3) Congress needs to continue to examine ways to reduce the impact of speculation in the commodities market on the overall cost of crude oil and hence refined products such as heating oil, diesel fuel and gasoline. Congress recently acted to close the Enron loophole through the passage of the Farm Bill and lawmakers should work to provide the Commodities Futures and Trading Commission with more resources to provide more transparency to the energy markets and the trading by companies that never take physical delivery of products such as heating oil, but seek only to make a profit on the "paper" transaction.

Thank you for the opportunity to provide the Committee with further information. Please let us know if we can be of further assistance.

MICHAEL FERRANTE,
President, Massachusetts Oilheat Council.
SANDRA FARRELL,
Northboro Oil Company.

SENATOR OLYMPIA J. SNOWE—FOLLOW-UP QUESTIONS FOR THE RECORD DIRECTED TO MICHAEL FERRANTE, MASSACHUSETTS OILHEAT COUNCIL, "EXAMINING SOLUTIONS TO COPE WITH THE RISE IN HOME HEATING OIL PRICES," JUNE 25, 2008

(1) What are the impacts of this "all time high" for customer receivables on small business dealers if consumers cannot afford to pay? Will this further drive prices up? Why or why not?

(2) At what average price point does it become economically inefficient, or unprofitable, for small business distributors to offer the "pre-pay" option for consumers to lock-in prices for an entire heating season?

(3) With the Federal Reserve lowering interest rates, in theory, it should be cheaper for businesses to borrow money, but as oil prices are skyrocketing, banks have tightened their credit risk criteria many small businesses are forced to pay higher interest rates on their loans and lines of credit. Compared to last year, at this time, is your membership paying higher or lower interest rates for credit? Please describe.

RESPONSES TO SENATOR SNOWE FROM MICHAEL FERRANTE

(1) As mentioned in my testimony on June 25, 2008, I polled our Board of Directors—about 35 retail heating oil dealers of all sizes across the state. They reported a 30–50% rise in customer receivables from the 2006–2007 heating season to the 2007–2008 heating season. Although I do not have data at this time, it is certainly possible that this factor could drive retail heating oil prices higher in the future because dealers will be managing their capital and expenses differently since payments from customers are slower, and because they may have to manage more bad debt. Those losses must be absorbed or balanced in order to remain viable.

(2) There really is no average price point in this regard. However, the costs associated with crafting a proper pre-buy or lock-in program are forcing dealers to withhold these types of programs. Why? The cost of the hedge insurance per gallon. As Sandra Farrell testified, two years ago the cost of hedging insurance was about 18 cents per gallon. This year the cost of hedging is at least 40 cents per gallon. As Sandra said, "Needless to say, I cannot afford to do this program this year, and it is my customers who will suffer."

(3) Given a survey I conducted of our Board of Directors, it appears at this time, that our leading members who currently have solid relationships with their banks have secured and are securing additional financing for their operations. I have no data on this time on the interest rates for these lines of credit but will conduct a more thorough assessment if the Committee needs the information.

To: Jed Nosal, Assistant Attorney General, Chief, Energy & Telecommunications Division; Chris Barry-Smith, Assistant Attorney General, Division Chief, Consumer Protection; Diane Lawton, Assistant Attorney General, Consumer Protection & Antitrust Division.
From: Michael Ferrante, President, Massachusetts Oilheat Council.
Date: May 13, 2008.
Subject: National Grid Advertising.

I am writing once again on behalf of the Massachusetts Oilheat Council, Inc. (MOC or Council), the trade association representing the heating oil industry throughout the Commonwealth of Massachusetts. Established in 1955, the Council has over 300 members, including retail and wholesale companies as well as the leading manufacturers of oil heat boilers, furnaces, burners, water heaters and storage tanks.

The MOC is once again respectfully requesting that your office take immediate and decisive action on a marketing campaign recently commenced by National Grid (formerly KeySpan) that is utilizing false and misleading statements to entice oil heat consumers within National Grid's service territories to convert to natural gas. The MOC strongly believes that consumers will incur significant capital costs and make energy choices based on the inaccurate and deceptive representations of the promotional campaign.

For the record, MOC has asked for your assistance on similar matters in letters dated June 7, 2007, and June 15, 2006. I've enclosed copies of both of those letters.

National Grid's current campaign includes television, print and outdoor advertising. A print advertisement in this week's Boston Globe (copy enclosed) states that "If one person converts from oil to natural gas, it takes 3,300 pounds of carbon out of the air."

The advertisement also states that if consumers convert an "old oil heating system to clean natural gas" the conversion will "lower carbon emissions by up to 40%." A similar theme is carried in their television advertisements. These statements must be scrutinized by your office.

National Grid has also placed advertisements in Fenway Park claiming that converting one furnace from home heating oil to natural gas is equivalent to taking six cars off the road, with respect to reductions in greenhouse gas (GHG) emissions.

Once again, the state's largest gas utility is being allowed to make statements that simply aren't true. For example, data available from the U.S. Environmental Protection Agency (USEPA) is in stark contrast to the claims made by National Grid in the Fenway Park advertising. According to information readily obtained from the USEPA website:

- The amount of CO2 equivalent GHG emissions emitted annually from the average passenger vehicle: 5.5 metric tons
- The amount of CO2 equivalent GHG emissions National Grid claims would be reduced in its Fenway Park advertising: 33 metric tons (6x5.5)
- The amount of CO2 equivalent GHG emitted annually from the average house heated by natural gas: 5 metric tons

- The amount of CO2 equivalent GHG emitted annually from the average house heated by home heating oil: 6.57 metric tons
- The actual difference: 1.57 metric tons—a number nowhere near the 33 metric tons National Grid claims in its Fenway Park advertising.

Additionally, when improved oil heat equipment efficiencies and environmentally friendly home heating choices like bioheat and low-sulfur fuel are factored into the calculation, the difference in GHG emissions becomes so small as to be statistically irrelevant.

Clearly, National Grid is following in the footsteps of KeySpan and has once again dramatically overstated the environmental benefits of switching to natural gas. But for the unwitting consumer, these claims can be highly effective for the utility in their efforts to grow market share by converting oil heated homes to gas heat.

We ask you once again to take action against this utility and halt this advertising campaign, and insist that the company provide the data to back up any and all claims when comparing natural gas to heating oil. It is simply unfair that National Grid is allowed to operate unchecked when it comes to its marketing practices.

I eagerly await a response from your office.

N THE BOSTON GLOBE MONDAY, MAY 12, 2008

MASSACHUSETTS OILHEAT COUNCIL,
Wellesley, MA, June 7, 2007.

Re: KeySpan Energy Delivery "Be Green, Win Green" Promotional Program

Hon. MARTHA COAKLEY,
Attorney General of the Commonwealth of Massachusetts;
Office of the Attorney General;
One Ashburton Place, 20th Floor,
Boston, Massachusetts.

DEAR ATTORNEY GENERAL COAKLEY: I am writing on behalf of the Massachusetts Oilheat Council, Inc. (MOC or Council), the trade association representing the heating oil industry throughout the Commonwealth of Massachusetts. Established in 1955, the Council has over 300 members including retail and wholesale companies as well as the leading manufacturers of oil heat boilers, furnaces, burners, water heaters and storage tanks.

The MOC is respectfully requesting that your office take immediate and decisive action on a marketing campaign recently commenced by KeySpan Energy Delivery that is utilizing false and misleading statements to entice oil heat consumers within the KeySpan service territories to convert to natural gas. The MOC strongly believes that consumers will incur significant capital costs and make energy choices based on the inaccurate and deceptive representations of the promotional campaign.

The KeySpan "Be Green Win Green" promotion is designed to convince residential oil heat customers to convert from oil to natural gas for a number of environmental reasons. (Attached as Exhibits A through D are copies of the promotional materials—web, mailer, press release, and radio transcripts respectively.) The promotional materials encourage potential customers to "Be Green" for three "Big Reasons" which include (1) improving the residential home, (2) helping the community, and (3) saving the planet. Associated with these exaggerated claims is a sweepstakes that offers the grand prize winner $25,000 worth of energy efficiency products from the company. (A copy of the rules, terms and conditions of the sweepstakes is attached as Exhibit E.)

As part of its "Be Green, Win Green" promotion KeySpan asserts a number of claims concerning the use of oil heat and oil heat equipment that are either blatantly false or unsubstantiated. The patently false misrepresentations contained in the ads are:

(1) "The first place your oil furnace or boiler and tank pollutes is your very own home."

(2) "You won't smell that heavy petroleum or deal with the soot that is a natural byproduct of oil."

(3) "By using natural gas, you'll never run out on a cold winter day or have to deal with frozen fuel lines."

(4) "An oil tank is like having a 275-gallon toxic waste dump in your cellar."

(5) ". . . when you switch, you'll get rid of the 275 gallons of toxic waste buried in your yard, or in your basement."

Not one of these five disparaging and slanderous statements has any basis in fact. They are merely the monopoly utility's illegal attempt to portray the oil distribution system as unreliable and every residential oil heat system as a source of pollution and toxic waste that is harming the consumer and the environment.

With regard to the first and second statements, properly operating oil furnaces, boilers, burners and storage tanks are environmentally sound. There is no basis for the utility to assert that every heating and storage system is polluting the home. It is also untrue that the use of heating oil results in the smell of "heavy petroleum" or soot. Heavy petroleum refers either to crude oil or No. 6 oil, not refined No. 2 heating oil, and therefore cannot be used in a residential heating system. Additionally, the only time that soot-type material might be generated from an oil heat system is when the system is badly in need of service and may be in a state of incomplete combustion.

The third statement misleads the consumer into believing that residential consumers routinely experience frozen fuel lines and lack of heating oil on winter days. This is false.

Despite the coldest of winters and strains on the transportation infrastructure, residential oil heat customers are consistently and faithfully served without any curtailment in supplies or deliveries. Fuel lines rarely, if ever, freeze. In addition, full service fuel oil dealers who operate emergency services during a 24-hour seven-day period immediately remedy any "no heat" calls during frigid periods. It is irresponsible for KeySpan to represent that oil heat customers are experiencing a lack of supply and delivery of product.

The final two statements are the most egregious and offensive. In describing a heating oil tank as a "275 gallon toxic waste dump in your cellar" or the "275 gallons of toxic waste buried in your yard, or your basement," KeySpan has gone to new depths. Such a characterization creates in the mind of the public a false and alarming impression that no heating oil storage tank is safe, that the tanks contain substances other than heating oil, and that each home heating oil tank is discharging harmful, deadly, and noxious chemical compounds and waste products into the home and the environment. Based on these misrepresentations alone, the promotion should be ended.

With regard to these five statements, further inquiry and research into their veracity is unnecessary. These representations are on their face false and deceptive. They are designed to do nothing more than frighten residential oil heat consumers into believing their health, safety and welfare, as well as the local and global environment, are at serious risk.

The KeySpan promotion makes further statements that require an investigation into their validity:

(1) "Natural gas adds value to your home."

(2) [Natural gas] . . . "is the preferred heating choice among homeowners across the (U.S.). In fact, 92% of homes in the U.S. are using something other than oil to heat their homes."

(3) "Switching to natural gas heating for your home is the equivalent of planting 100 trees every year for the life of your equipment."

With regard to each of these statements, a consumer would have to do a great amount of research to discover whether each of these statements is either accurate or misleading. KeySpan should be required to substantiate these statements, especially since they will influence consumer decisions. For example, statement #1 contends that natural gas adds value to your home, but there is no indication that a home heated with a modem oil heat system is any less valuable than those heated with natural gas.

In statement #2, the utility claims that 92% of U.S. homes are using something other than oil to heat their homes.

Even assuming that the percentage is accurate, it would take a well informed consumer to discern that the most likely reason for this statistic is that the heating oil market has always been strongest in the northeast and mid-Atlantic regions, and that other parts of the country may rely on products other than natural gas and oil for space heating and hot water such as electricity and propane.

The statement that switching to natural gas is the equivalent of planting 100 trees per year for the life of the equipment is unsubstantiated and nothing more than an attempt by Keyspan to wrap itself around an environmental benefit through a vague reference.

With respect to the emission statistics liberally quoted in the promotional materials, no explanation is provided for the few authorities referenced. The MOC is presently reviewing the alleged statistics and percentages used by KeySpan, but it should be the utility's responsibility to provide proof for the validity of its representations. In the MOC's opinion, since the utility was deceptive in its representation of even the most basic of facts (i.e. that heating oil tanks do not contain toxic waste, that heating oil systems do not burn heavy oil, etc.), we are not confident that its representations concerning emissions are accurate.

This is especially so since there is at least one scientific study that compared the global warming effects of natural gas and heating oil side-by-side and found heating oil to be more favorable to the environment when all of natural gas's production, transportation and use are taken into account.

The oil heat industry has adopted a reasoned and careful approach to addressing the environmental concerns of emissions and global warming. The industry is steadily working towards the introduction and use of low sulfur heating oil and the use of biofuel blends in the near future that will dramatically reduce heating system emissions into the environment. The oil heat industry also continues to aggressively pursue research and development for higher efficiency equipment. The broad array of oil heat equipment currently available is highly efficient and clean burning. Consumption of oil heat has dropped over the years because of increased efficiencies and because our industry emphasizes conservation with its customers. Our industry is not satisfied that it has achieved its ultimate goal and therefore continues to advocate for more research and development.

In conclusion, KeySpan's "Be Green, Win Green" promotional program contains numerous false, misleading and deceptive representations that will undoubtedly frighten consumers to believe that residential oil heat is unsafe and that a conversion from oil heat to natural gas is essential.

We therefore seek your assistance as the primary protector of the consumer in the Commonwealth to direct KeySpan to immediately cease and desist this promotional program, to provide evidence of its representations contained in the promotion, and to issue statements of correction so that the consuming public can make their energy choices based on fact and not misrepresentations. Finally, we also suggest that the utilization of ratepayer funds to finance such false and misleading programs should be raised before the Department of Telecommunications and Energy through either a separate proceeding or in the next KeySpan gas rate case.

We thank you for your assistance and eagerly await your response.

Respectfully submitted,

MICHAEL FERRANTE,
President.

MASSACHUSETTS OILHEAT COUNCIL,
Wellesley, MA, June 15, 2006.

JOSEPH ROGERS,
Division Chief, Utilities,
Office of the Attorney General, Public Protection Bureau,
100 Cambridge Street, 11th Floor,
Boston, MA.

DEAR MR. ROGERS, On behalf of the membership of the Massachusetts Oilheat Council (MOC), the state trade association representing retail and wholesale heating oil companies, as well as manufacturers of Oilheat equipment, I am writing today to lodge a complaint with your office regarding the latest direct mail marketing piece from KeySpan Energy Delivery.

For the record, the MOC was established in 1955, and we currently represent over 350 companies as well as nearly 8000 state licensed oil burner technicians who install and maintain home heating systems across the state.

Specifically, the MOC believes that KeySpan should not be allowed to market its products based on misleading representations to the public. Furthermore, the MOC does not believe it is appropriate that the Department of Telecommunications & Energy (DTE) allows KeySpan to utilize rate payer funds to produce and distribute marketing materials that contain false or questionable statements about Oilheating, and for that matter natural gas.

I urge you to examine the enclosed marketing mailer that is shaped like a baseball and touts KeySpan's relationship with the Boston Red Sox. How is it that the state's largest gas utility is allowed to make the following claims?

- "Because you don't pay for natural gas in advance (like with oil), it allows you to free up capital. You pay only for what you use, after you use it."
- "With natural gas equipment, there are fewer moving parts, so it requires less maintenance and provides more reliability."
- "Natural gas heat also provides soot-free operation and eliminates the hassles of environmental liabilities and costs associated with oil tanks."

These statements can only be described as either absurd or false. But for the unwitting consumer, they can be highly effective for KeySpan in growing market share by converting Oilheated homes to gas heat.

In summary, the MOC believes that action must be taken against KeySpan with regard to claims made in this brochure. At the very least, they should be held responsible for providing solid data to back up any and all claims when comparing natural gas to heating oil.

In addition, the MOC respectfully requests that your office express these concerns to regulators at the DTE. It is simply unfair that KeySpan is allowed to operate almost unchecked when it comes to its marketing practices.

Respectfully yours,

MICHAEL FERRANTE,
President.

ENVIRONMENT NORTHEAST,
Portland, ME, July 31, 2008.

MEMORANDUM

To: Senator John Kerry and Senator Olympia Snowe.
From: Michael D. Stoddard, Deputy Director; Derek K. Murrow, Director of Policy Analysis.
Re: Response to Questions Related to Oil Energy Efficiency.

Thank you for your continued interest in energy efficiency opportunities for users of petroleum-based fuels. The following are ENE's (Environment Northeast) responses to the questions you posed to ENE by letter of July 10, 2008 after our testimony of June 25, 2008. Please let us know if you have further questions or if we can be of assistance in ongoing discussions on this critically important topic.

QUESTIONS FROM SEN. KERRY

(1) What type of energy efficiency investments do you recommend to people to increase efficiency, and what programs exist to assist people with heating oil improvements today?

ENE: Good energy efficiency programs employ a suite of financial incentives, including for example assessment and design help, rebates, direct incentives to retailers, and in some cases low-interest loans, so that the programs have the flexibility to entice a wide variety of consumers to install/incorporate energy efficiency measures. The specific measures (types of efficiency projects or investments) that should be recommended will vary by state and by the situation of each individual building or industry.

As a general principle, ENE recommends that the decision about types of energy efficiency investments to be supported by public funds be determined by cost-effectiveness (or the benefit-to-cost ratio) and by the priorities of the state, as determined by stakeholder advisory boards and technical consultants. We recommend that the efficiency programs be run at the state level and that special attention be paid to ensuring the oil heat programs are coordinated and integrated with efficiency programs funded by electric and natural gas ratepayers (or by the proceeds from CO_2 cap and trade allowances). Ideally, a significant portion of efficiency programs should be available for "fuel-blind" programs so that customers have access to efficiency incentives based on the cost-effectiveness of the opportunities in their homes (or businesses), rather than on the type of energy they use. There are many successful programs currently providing financial assistance for natural gas energy efficiency measures, and ENE recommends that oil efficiency programs be modeled on these gas programs.

As to specific individual measures, cold weather states that use oil for heating homes and small businesses will find universally that building envelope measures (e.g., air sealing and insulation) deliver very high benefit to cost ratios, as do upgrades and replacements for heating systems (e.g., furnaces, boilers, water heaters, heat pumps). For smaller retrofit projects (e.g., less than a few thousand dollars), rebates or "buy downs" have been shown to be the preferred type of financial incentive because of the absence of paperwork and ongoing obligations. For larger projects (e.g., gut rehab) and for incentives in new construction, low- or no-interest loans may be helpful as supplements to rebates and buy downs.

Existing programs to assist people with heating oil improvements are extremely limited, under funded, and essentially are available only to low income consumers. The federal Weatherization Assistance Program (WAP) was recently funded at $205 million for one year, about enough to service 80,000 low income units across the U.S. For context, consider that there are 5.8 million income eligible homes in the country (according to LIHEAP reports). A recent study in Vermont concluded that the WAP provided enough funding to reach 3% of eligible homes each year in that state. LIHEAP can supplement this amount since it allows use of up to 15% of each state's allocation for weatherization for low income homes. Many states do not exercise this option, but even those that do find the amounts woefully inadequate. In Maine, for example, about $6 million of LIHEAP funds was available for weatherization in 2007. Yet there were roughly 50,000 eligible LIHEAP customers in Maine. The average cost of weatherizing low income homes in Maine is about $5,000 (nearly double the national average given the WAP funding cap and the greater need to insulate against the cold and the older age of homes), which means that only 1,200 homes (about 2.4% of eligible homes) could be reached. Even if the national average cost for such weatherization were assumed (i.e., $2,500/unit), still only 5% of homes would have been reached. We are aware that NORA and state oil dealer associa-

tions sometimes make education and training programs available, but the only financial incentives referenced on their website are federal tax breaks that expired last year.

At the state level, Alaska has recently established a strong but already oversubscribed statewide program to assist heating oil customers in capturing energy efficiency opportunities through rebates and loans, while Connecticut, Massachusetts and Vermont have small statewide programs for this purpose. Starting in 2008, Connecticut provides several million dollars per year garnered from bonds, to be administered by a stakeholder driven council, for oil efficiency programs that have not yet been designed. In addition, the state Office of Policy and Management is overseeing a heating system replacement program that will offer up to $500 rebates to those installing the most efficient oil and gas systems. Massachusetts has a "Fuel Blind" rule governing its efficiency programs that apply to low income customers (only), funded by electric and natural gas ratepayers, which enables investments in weatherization for low-income homes using oil heat. Vermont assesses a 0.5% gross receipts tax on energy that helps to fund weatherization for oil heat customers. ENE is also aware of ad hoc community-based initiatives, typically funded by charitable donations that make small amounts of money available for weatherization. These are the only existing assistance programs to provide energy efficiency to oil heat customers that ENE is aware of—much more must be done.

(2) How much do energy efficiency investments cost, and how long will it take people to recoup this money through energy savings? Would providing low interest loans be enough in some cases to incentivize people to invest in energy efficiency?

ENE: Energy efficiency investments may cost anywhere from a few hundred dollars to tens of thousands of dollars per home and depend on the age, style and upkeep of the building. By way of illustration, a preliminary home energy audit to identify specific improvements needed in a home may cost $200–300; insulation of the attic and basement could cost $1,000–4,000; a replacement of an old heating system with a new high-efficiency system may cost several thousand dollars.

Consider, for example, the following results of a study performed for the Oregon Energy Trust., indicating the top ten most cost-effective natural gas efficiency measures for single family households (hhld).[1]

Measure	Sector	Incentive Cost ($/Hhld)	Measure Savings (gal/hhld/yr)	Measure CSE ($/gal)	Measure Life (yrs)	Payback (:1) $4.00/gal
Weatherization: Walls	Retrofit	984	250	0.17	45	24
Weatherization: Floors	Retrofit	1400	126	0.46	45	9
Weatherization: Attics	Retrofit	786	293	0.11	45	36
HVAC: Duct Seal Only	Retrofit	500	122	0.28	20	14
HVAC: Furnace Retrofit ...	Retrofit	900	79	0.65	25	6
Windows: to Class 34	New	215	22	0.49	30	8
HVAC: Duct Insulation	Retrofit	200	25	0.53	20	8
DHW: Eff Water Heater ...	Retrofit	60	14	0.42	12	10
DHW: Combo Boiler (air)	New	1200	149	0.54	20	7
DHW: Combo Boiler (H20)	New	700	149	0.32	20	13

Recent experience and studies suggest that efficiency investments for oil heat have an average benefit to cost ratio of about $2.7 saved for every $1 spent (by the consumer and efficiency program, combined). This figure is based on a fuel oil cost of $1.50 per gallon. At $4.00 per gallon, the benefit would be about $7 for every dollar invested. Given consumers' high level of motivation to participate in these programs, public dollars are very well leveraged. A recent Vermont study estimated that the benefit to cost ratio of just the public dollars spent on oil heat efficiency programs would be $4.8 saved over the full life of the measure for every $1 of public funds invested. The best programs maximize the consumer contribution to each project, based on their ability and willingness to pay, which means the payback to individual consumers will differ depending on the level of their own contribution.

To reiterate a fundamental lesson of more than three decades of energy efficiency programs administered by the states and utilities (for electricity and natural gas), the key element in successful efficiency incentives is helping customers get over the "first cost" of efficiency measures. The use of rebates and buy downs, scaled (using market research) to meet customers' ability and willingness to pay, has been the most successful financial tool and has delivered both economic and environmental

[1] Ecotope, Inc., *Natural Gas Efficiency and Conservation Measure Resource Assessment*, for the Energy Trust of Oregon, August, 2003.

benefits very cost-effectively (far less costly than buying additional supplies of new energy).

By contrast, loan programs have been a major disappointment due to lack of consumer interest. Loans have a place in the menu of measures, but cannot be relied upon for high participation rates or for speedy results. The experience of energy efficiency programs with low interest loans has been particularly challenging in the residential sector. For decades, efficiency home mortgages have been available to give consumers an interest rate break for efficiency upgrades. Almost nobody uses them. In 2006, when home heating oil prices had already begun to climb, Massachusetts offered low interest loans for efficiency upgrades, and less than 300 customers took advantage of the program. This is simply too low a penetration rate to get the job done.

To be sure, such loans are not appropriate for low income consumers. However, they are appropriate for middle and high income consumers and small businesses, and may become more popular given the unprecedented rise in oil prices. ENE believes that loans, while not successful in the past, should be considered among the suite of tools available in this new era of high oil prices.

(3) What is the best way to reach out to homeowners to best educate them on the cost of savings of energy efficiency programs?

ENE: As noted above, ENE recommends that comprehensive, fuel blind energy efficiency initiatives be established in each state. All such programs typically have marketing and education budgets, as well as training budgets for vendors and service providers. Such statewide programs may choose to target high energy users if they have access to data showing where to find such users, or may pursue "direct install" programs where vendors go door to door in targeted communities (or targeted consumer segments) and describe the list of measures and incentives they have available.

Other possible methods for reaching out to consumers include use of bill inserts, and informative disclosures that could be required at the time of sale of real estate or in mortgage/financing documents. Contractors who do new construction or major renovations can also be a good source of information, as are vendors at hardware and appliance stores. The bottom line is that education and marketing should be a part of the state's comprehensive efficiency program plan.

(4) Have you worked with NORA about developing more efficient technologies? What do you see NORA's role (sic) in helping deal with the rising prices of home heating oil?

ENE: ENE has not worked directly with NORA in the development of energy efficient technologies. We have however worked with the oil distributor trade associations in several New England states (Connecticut, Massachusetts, Maine and Rhode Island), collaborated on discussions about establishing new efficiency programs for oil heat customers, and worked in a limited way with some of the industry and NORA consultants. Historically, these associations have opposed establishing efficiency funds for oil heat consumers, but in recent years there has been a higher level of support from the Independent Connecticut Petroleum Association and the Massachusetts Oil Heat Council. We understand that NORA has performed research and generated literature that promotes energy efficiency, primarily related to heating equipment.

That said, ENE has a general concern that any organization funded and controlled by the oil industry will have an inherent conflict of interest in promoting aggressive energy efficiency programs that, if successful, will result in lower revenue for oil dealers. The literature provided by NORA is almost exclusively about the opportunities connected with heating system upgrades and significantly fails to (a) offer any financial incentives or (b) note the opportunities for improving the building envelope.

ENE's view is that oil dealers and their trade associations should have a voice in the development and deployment of publicly funded efficiency programs, and should also be eligible to bid on competitive solicitations to deliver efficiency measures to consumers, but should not have a controlling or managing/administrative oversight role.

(5) In his written testimony, Michael Ferrante spoke of the System Betterment Charge used by regulated utilities. NORA serves a similar function, but do you think this type of program should be expanded to better fund energy efficiency programs?

ENE: To be clear, NORA does not serve a similar function to what energy efficiency advocates mean when they talk about System Benefit Charges (SBCs) that have been so successfully run by regulated utilities. NORA is in the business of of-

fering tips, information, and training and generally promoting the use of oil as a heating fuel. ENE is not aware of any financial incentives offered by any NORA program nor any planning, administration, implementation or oversight of any SBC funded energy efficiency programs. More information will be helpful to consumers, but it is not what they need most. They need financial assistance to overcome first cost barriers to energy efficiency.

We understand that NORA's funding stream (pursuant to Public Law 106–469) is under consideration for reauthorization. The current fee that funds NORA is $.002 per gallon assessed on all dyed #2 distillate and all #1 distillate.

ENE recommends that an additional assessment or charge be added to the NORA charge, but kept separate, and that the proceeds be directed to a trust to be used for state-based efficiency programs or the federal Weatherization Assistance Program (see further details on funding levels in our response to Sen. Snowe's Question #3, below). These funds should not be administered by oil dealer associations, given their inherent conflict of interest, but such dealers and associations should be eligible to bid on competitive solicitations administered by statewide, state-based programs that use stakeholder advisory boards, expert consultants, and some form of state agency oversight. Just as electric and natural gas utilities are typically included in the stakeholder advisory boards on an ex officio (non-voting) status, so too should oil dealer associations be included as ex officio voices for oil efficiency programs.

SEN. SNOWE

(1) Most provisions encouraging energy efficiency within homes and commercial buildings expire at the end of the year. Can you describe how the nearing expiration may have a chilling effect on the effectiveness of the incentives to spur greater energy efficiency? Does it make sense to offer a longer term extension of these provisions such as the 5-year extension for the deduction for energy efficient commercial buildings that was recently passed in the House but so far has stalled in the Senate? Why or why not?

ENE: As noted in our written testimony, ENE supports extending tax incentives for energy efficient buildings and heating systems. These incentives effectively use the marketplace and leverage private funds to deploy more efficient products and practices.

Nonetheless, these tax incentives do not supplant the urgent need for comprehensive statewide efficiency investments, especially for low income and working poor consumers, and we think the two types of tools should be used in concert.

Many consumers are considering upgrading their old heating systems. As with most energy efficiency improvements, the high first cost of purchasing more efficient equipment presents a barrier. Especially when consumers are feeling that money is tight, as in these tough economic times, they are less likely to spend money up front to save money later. They need to save money now. The result is that they will either not do the replacement now, or they will do it now but stop short of purchasing the higher efficiency systems. In this situation, federal tax incentives can complement the incentives of an SBCtype efficiency program, and the SBC incentive levels can be set with the tax program in mind.

We note also that the $500 lifetime cap for certain measures is quite low and encourage expanding the size of the cap.

(2) In your testimony, you estimate a state and federal funding level of approx $300 million for market-based efficiency programs for heating oil consumers in New England that would be sufficient to capture all cost effective energy efficiency resources. Can you list the benefits New Englanders would see should this funding for market-based efficiency programs be allocated?

ENE: First, we wish to clarify that ENE recommends investing in efficiency measures for oil heat customers in New England at a rate of approximate $300 million each year, for an extended period of time, at least 10 years in duration. Our estimate of the lifetime energy savings from this level of investment is roughly five times (i.e., saving $1.5 billion for every year of investment).

Benefits for individual customers will vary depending on the type and extent of weatherization and efficiency upgrades suitable for their specific building. A recent study in Vermont projected that an aggressive efficiency campaign for residential oil heat customers could *reduce annual fuel consumption by an average of 25% for each building served,* which at today's prices and average consumption rates translates

into an annual savings of more than $800 per household.[2] The spending rate recommended by the study for this small state was $200 million per year in public funds, leveraging another $200 million in private (or customer) funds, with the exception that low income homes would be expected to receive full subsidization.

A 25% reduction in energy consumed will translate to the same rate of reduced CO_2 emissions and acid rain-causing sulfur dioxide emissions for every home that is treated. These reductions are critical in the long term if the Northeast is to play its part in achieving greenhouse gas reduction targets. To illustrate the point, consider that fully one-quarter of current greenhouse gas emissions in Maine come from the combustion of heating oil.

Other benefits of a market-based efficiency program include reduced vulnerability to price spikes for state and municipal governments, homeowners, and small businesses, and retention of energy dollars in the local economy. Numerous studies show that energy efficiency programs generate good new jobs in the local economy while diminishing the amount of money that is shipped overseas for imported oil. Similar levels of electric efficiency investment at the state level have led to thousands of new energy service jobs in states like Massachusetts and Connecticut. Efficiency programs for oil customers will also help electric utilities and their ratepayers who are experiencing record levels of unpaid bills even as these struggling oil heat customers turn on electric space heaters and ovens to stay warm in the winter.

Finally, by dramatically reducing our buildings' needs for heating and cooling, we can begin to transition to higher levels of reliance on alternative energy supplies such as solar thermal and sustainable biomass.

(3) Do you believe that energy efficiency programs are more effectively run on the State level or the federal level? How much federal funding should be dedicated for implementing energy efficiency programs? How can the federal government work to ensure that federal resources are being effectively utilized for energy efficiency programs?

ENE: ENE recommends that efficiency programs be administered at the state level because that is where stakeholders, government officials and local vendors have the best sense of the opportunities and resources for deploying energy efficiency equipment and services. Stakeholders and officials at the state level are in the best position to design programs that will fit the unique attributes of the market, vendors, community groups, and state agencies. The existing infrastructure for delivering energy efficiency programs is all found at the state level, both in the form of utility and State or third-party run programs (for electric and natural gas customers) and the implementation of the federal WAP programs. It makes sense to piggyback on this infrastructure.

In the context of market-based efficiency programs, ENE's position is that federal funds should be used to leverage not only private (consumer) contributions, but also State funding. One scenario that ENE has modeled is the establishment of efficiency programs funded in a 2 for 1 match ($2 in federal contribution for every $1 from State sources). Under this scenario, the federal government would contribute $200 million if the New England states committed $100 million. ENE assumes that the states' most probable means for generating these funds is through a gross receipts tax or a system benefit charge (SBC). This level of funding could also be ramped up over a 2–3 year period.

A different way to view the appropriate level of federal funding would be to assume that the federal government takes the primary responsibility for addressing the weatherization needs of low income consumers. The magnitude of the problem is so large and serious that the federal government must help. Because of the federal government's ongoing and rising commitment to address the needs of LIHEAP customers, ENE recommends that it establish a program to provide full weatherization and heating system upgrades to all LIHEAP homes in the country. Investing funds in weatherizing these homes now will reduce the government's burden of heating oil assistance in the future.

There are approximately 350,000 LIHEAP households in the New England. Assuming the average cost for these homes is $5,000, the cost to serve all of them would total $1.75 billion. In our written testimony, ENE suggested that a target be set to service every LIHEAP household within five years, but we are mindful that there is a real limit to how fast these programs can be ramped up given the nascent status of the weatherization service sector. It may be more reasonable to assume that the target for treating all low income homes should be 10 years or possibly

[2] Regulatory Assistance Project, *Affordable Heat: A Whole-Buildings Efficiency Service for Vermont Families and Businesses*, January, 2008.

even longer. Some WAP program administrators have indicated that they could increase programs at a rate of 50% per year.

To ensure that federal resources are effectively utilized, three important features should be required. First, before being approved for implementation, all programs using federal funds should be required to demonstrate how they will be "cost effective," i.e., they will save more money than they cost, using a predetermined test (as is done in electric and natural gas efficiency programs). Second, all programs should be evaluated on a regular schedule, using independent, professional evaluators, and the actual benefit-to-cost ratio reported so that programs can be compared with each other and with performance in other states, and lessons learned. The federal government may wish to reward states in subsequent budget allocations for exceeding objective performance standards. Third, program planning, design and oversight should incorporate regular involvement from committed independent stakeholders, staffed by consultants expert in energy efficiency who are paid for out of the program funds.